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Transcript of the Testimony of
Salter, Anna C.

Date: May 30, 2023
Volume:

Case: JOHN DOES A, B, C, D, E, F, G, H, et al. v. GRETCHEN WHITMER,
Governor of the State of Michigan, et al.

Printed On: June 13, 2023

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5/30/2023

<p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <p>JOHN DOES A, B, C, D, E, F, G, H, MARY DOE and MARY ROE, on behalf of themselves and all others similarly situated, Plaintiffs,</p> <p style="text-align: center;">File No. 2:22-cv-10209 vs. Hon. Mark A. Goldsmith Mag. Curtis Ivy, Jr.</p> <p>GRETCHEN WHITMER, Governor of the State of Michigan, and COL. JOSEPH GASPER, Director of the Michigan State Police, in their official capacities, Defendants.</p> <p style="text-align: center;">/</p> <p>The remote videoconference deposition of ANNA C. SALTER, Ph.D., taken before me, SANDRA APLEY, CSR-8838, a Certified Shorthand Reporter and Notary Public acting within the County of Oakland, State of Michigan, on Tuesday, May 30, 2023, at 10:02 a.m.</p> <p style="text-align: center;">Page 1</p>	<p>1 APPEARANCES:</p> <p>2</p> <p>3 AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN By: Ms. Miriam J. Aukerman (P63165) Ms. Dayja S. Tillman (P86526) 4 1514 Wealthy Street SE, Suite 260 Grand Rapids, Michigan 49506 5 (616) 301-0930 maukerman@aclumich.org 6 dtillman@aclumich.org Appearing via videoconference on behalf of Plaintiffs</p> <p>7 MICHIGAN DEPARTMENT OF ATTORNEY GENERAL 8 By: Mr. Eric M. Jamison (P75721) 525 West Ottawa Street 9 Lansing, Michigan 48933 (517) 335-7573 10 jamisone@michigan.gov Appearing via videoconference on behalf of Defendants</p> <p>11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 2</p>
<p>1 TABLE OF CONTENTS</p> <p>2 WITNESS PAGE</p> <p>3 Anna C. Salter, Ph.D.</p> <p>4 Examination by Ms. Aukerman 4 Examination by Mr. Jamison 174</p> <p>5</p> <p>6</p> <p>7 EXHIBIT INDEX</p> <p>8 PLAINTIFFS'</p> <p>9 EXHIBITS DESCRIPTION PAGE</p> <p>10 Exhibit No. 1 - Psychological Report 9</p> <p>11 Exhibit No. 2 - Federal Rule citation 9</p> <p>12 Exhibit No. 4 - Curriculum Vitae 38</p> <p>13 Exhibit No. 5 - List of Legal Cases 52</p> <p>14 Exhibit No. 6 - Court transcript 86</p> <p>15 Exhibit No. 9 - BJS article 116</p> <p>16 Exhibit No. 10 - APA article 126</p> <p>17 Exhibit No. 11 - AIC article 130</p> <p>18 Exhibit No. 13 - Westlaw case: U.S. v. Graham 169</p> <p>19 Exhibit No. 14 - Westlaw case: K.M. v. S.M.M. 169</p> <p>20 Exhibit No. 15 - Westlaw case: State v. Tjernagel 170</p> <p>21 Exhibit No. 16 - Court transcript 171</p> <p>22 Exhibit No. 17 - APA article 97</p> <p>23 (Exhibit Nos. 3, 7, 8, and 12 were</p> <p>24 intentionally omitted.)</p> <p>25</p> <p style="text-align: center;">Page 3</p>	<p>1 Tuesday, May 30, 2023</p> <p>2 10:02 a.m.</p> <p>3 --oOo--</p> <p>4 THE REPORTER: My name is Sandra Apley, a 5 Michigan State certified shorthand reporter and notary 6 public. This deposition is being held via 7 videoconferencing equipment. The witness and the 8 reporter are not in the same room. The witness will 9 be sworn in remotely pursuant to agreement of all 10 parties.</p> <p>11 ANNA C. SALTER, Ph.D. 12 was thereupon called as a witness herein, and after 13 having been first duly sworn or affirmed to tell the 14 truth, the whole truth, and nothing but the truth, 15 was examined and testified as follows:</p> <p>16 EXAMINATION</p> <p>17 BY MS. AUKERMAN:</p> <p>18 Q. Good morning, Dr. Salter. My name is Miriam Aukerman. 19 I'm an attorney at the ACLU of Michigan, and I 20 represent the plaintiffs in this case. I just want to 21 start by going over some of the basic rules for 22 depositions.</p> <p>23 I think -- I know that you've testified a 24 fair amount in the past, so I'm sure they're quite 25 familiar to you. But you have to answer verbally.</p> <p style="text-align: center;">Page 4</p>

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<p>1 The court reporter can't take down nods or heads 2 shaking or things like that. 3 If you need clarification on a question that 4 I'm asking you, can you ask me for that? 5 A. Yes. 6 Q. Okay. And if you answer a question, I'll assume you 7 understood that. Okay? 8 A. Yes. Well, I'll assume I understood it, too. 9 Q. Okay, great. Now, the court reporter can't take down 10 two people talking at once, so we should both try not 11 to talk over each other. From time to time, your 12 attorney may object, but unless he instructs you not 13 to answer, you need to answer the question. 14 You should answer just the questions that 15 I've asked. In my experience, sometimes witnesses 16 want to add information they think is important, but 17 that isn't what I've asked about. If your attorney 18 wants you to elaborate about something, your attorney 19 can ask you questions after I'm finished asking my 20 questions. 21 So can we agree that you'll provide answers 22 that are responsive to the questions that I'm asking? 23 A. Yes. 24 Q. Okay, great. And then, if I cut you off because your 25 answers are nonresponsive, we'll stop, and your</p> <p style="text-align: center;">Page 5</p>	<p>1 attorney can ask some questions later if he wants more 2 information. Is that okay? 3 A. Well, I'd rather finish my answer, but we'll just see 4 how it goes. 5 Q. Okay. Well, you know, if I cut you off, your attorney 6 can ask questions later to clarify anything than you 7 wanted to add in. 8 If you want to take a break today, we can 9 certainly do that whenever you need to. I just ask 10 that you answer the pending question that is on the 11 table. And finally, today, I'm going to be asking you 12 about things that are listed in your report. I'm not 13 going to ask you to offer opinions that are not 14 already disclosed in this report. Is that fair? 15 A. Yes. 16 Q. Okay. And, again, if you start to offer an opinion 17 that's not discussed in your report, I may cut you off 18 because it wasn't discussed in your report. Okay? 19 A. I understand. 20 Q. Okay. So since we're doing this by Zoom, can you 21 clarify where you're at? 22 A. I am at 300 Palomino Drive, Jefferson, Colorado. 23 Q. Okay. And do you have anything in front of you other 24 than your computer screen? 25 A. Yes. I have my report and --</p> <p style="text-align: center;">Page 6</p>
<p>1 Q. Your report. I'm sorry. I cut you off. Your report? 2 A. I have my report and some of the research that I 3 referenced. 4 Q. Okay. And other than the animals you mentioned before 5 we went on the record, do you have anyone with you? 6 A. No. 7 Q. Are you under the influence of any medications, or is 8 there anything else that could affect your ability to 9 answer questions truthfully today? 10 A. Well, aging, but other than that, no. 11 Q. Okay. All right. Let's talk about how you prepared 12 for your deposition today. 13 What did you do to prepare, if anything? 14 A. I went back and read my report, and I read some of the 15 literature. I reviewed some of the literature that I 16 referenced in the report. 17 Q. Okay. And did you have -- without telling me what you 18 might have discussed, did you have any conversations 19 with your attorney? 20 A. I don't think so. Maybe he contacted me about just 21 with the information about Zoom, but that was mainly 22 practical information about when it started and so 23 forth. We didn't discuss the research or my report. 24 Q. Okay. And you mentioned that you reviewed your report 25 and some literature that you referenced in your</p> <p style="text-align: center;">Page 7</p>	<p>1 report. 2 Did you review any other documents? 3 A. No. 4 Q. And did you speak with anyone else in preparation for 5 the deposition? 6 A. No. 7 Q. Anything else you did to prepare? 8 A. No. 9 Q. Okay. So let me share my screen here. 10 Okay. Can you see that? You should be 11 seeing Exhibit 1. Do you see that? 12 A. If you're asking me, yes. 13 Q. Yes. So this is -- let's see if I can get this larger 14 here. 15 Can you see the copy of your report, 16 Dr. Salter? 17 A. Yes. 18 Q. So did you write this report? 19 A. Yes. 20 Q. And was anyone else involved in writing it? 21 A. No. 22 Q. Okay. Did anyone help you write it? 23 A. I think it's the same question. No. 24 Q. Okay. Did anyone tell you what to write? 25 A. No.</p> <p style="text-align: center;">Page 8</p>

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<p>1 Q. Did anyone tell you to make any assumptions in writing 2 this report? 3 A. No. 4 Q. And did anyone provide you with any facts not included 5 in the materials you reviewed? 6 A. I'm sorry. I'm not sure I understand the question. 7 Q. Did you -- were you provided with any sort of factual 8 background documents, facts that you considered in 9 making your opinions? 10 A. Yes. I was given some of the other experts' reports. 11 Q. Okay. 12 A. And I referenced them in the report. 13 Q. Okay. We'll get to that in just a second. 14 Are you familiar with the Federal Court 15 Rules for expert reports? 16 A. No. 17 Q. So let me then stop sharing and share this. Can you 18 see -- this is Exhibit 2. 19 MS. AUKERMAN: We should mark it. I'm 20 sorry. We should mark the report as Exhibit 1. This 21 is Exhibit 2, the Rule 26 of the Federal Rules of 22 Civil Procedure. 23 (Plaintiffs' Exhibit Nos. 1 and 2 were 24 marked.) 25 BY MS. AUKERMAN:</p> <p style="text-align: center;">Page 9</p>	<p>1 Q. Do you see that, Dr. Salter? 2 A. No, ma'am. I see your desktop. 3 Q. Okay. Let's try that again. Do you see that now? 4 A. Yes. 5 Q. So these are the Federal Rules of Civil Procedure. 6 This has to do with expert reports. And I just want 7 to point you to what is required for expert reports in 8 federal court. 9 So looking here at page 3 of Exhibit 2, the 10 Federal Rules of Civil Procedures 26, it requires you 11 cite "a complete statement of all opinions that the 12 witness will express and the basis and reasons for 13 them." 14 Do you see that, Dr. Salter? 15 A. Yes. 16 Q. And all the opinions you intend to offer in this case 17 are contained in your report, correct? 18 A. Yes. 19 Q. You haven't left anything out? 20 A. Not to my knowledge. 21 Q. Okay. And the report is also a complete statement of 22 the basis and reasons for your opinion, correct? 23 A. Yes. 24 Q. And in No. 2 here it says, the report must contain 25 "the facts or data considered by the witness in</p> <p style="text-align: center;">Page 10</p>
<p>1 forming" your opinion. 2 Does your report contain all the facts and 3 data you considered in forming your opinions? 4 A. Well, yes and no. There is a large literature. I am 5 aware -- I didn't include every study on undetected 6 offenses that I'm aware of. 7 Q. Okay. So in other words, even though the report -- 8 the rules require that the report contain the facts 9 and data considered by the witness, you haven't 10 included all of the things that you relied on. Is 11 that accurate? 12 MR. JAMISON: Objection. It calls for a 13 legal conclusion. 14 BY MS. AUKERMAN: 15 Q. You can answer. 16 A. I included enough research to support my opinions. I 17 can't tell you that I included every -- I don't know 18 how to say it -- the background of knowledge that I 19 have on undetected offenses. I did not include every 20 study in the field on undetected offenses, but I 21 included ones that supported the ones enough that 22 supported my opinion. 23 Q. So you've included -- it's fair to say you included 24 the facts that you think are sufficient to support 25 your opinion, correct?</p> <p style="text-align: center;">Page 11</p>	<p>1 A. Yes. That's a better way of putting it. 2 Q. Okay. So let's talk about how you became assigned to 3 work on this case. 4 When were you retained in this case? When 5 were you first approached about it? 6 A. I don't remember. I can find that, but I don't 7 remember that offhand. 8 Q. Okay. 9 A. Or I can send it to you later, if you'd prefer. 10 Q. Sure. That would be fine to hear that later. 11 Do you know why you were retained in this 12 case? 13 A. Yes. I was retained to talk about Static-99. 14 Q. Okay. And what was your assignment in this case? 15 A. Excuse me one second. It looks like that the earliest 16 emails I have were in November 2022. 17 Q. Okay. And so in terms of your assignment in this 18 case, what were you asked to provide an opinion on? 19 A. Whether Static-99 is an adequate measure of 20 reoffending and whether recidivism as measured by 21 Static-99 is the same thing as reoffending, in other 22 words, the justice gap. 23 Q. Okay. Anything else you were asked to provide an 24 opinion on? 25 A. Yes. How long it takes to do a comprehensive</p> <p style="text-align: center;">Page 12</p>

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<p>1 assessment. I believe those are the only two things. 2 Q. Okay. Were you asked to provide an opinion on -- to 3 respond to the opinion of the plaintiffs' experts? 4 A. To be honest, I don't remember whether I was 5 specifically. I was given all of that material to 6 read, but I don't remember if I was specifically asked 7 to review their reports. 8 I did review their reports in light of what 9 I needed to do which was talk about reoffending versus 10 recidivism. I don't remember if anyone specifically 11 asked me to include anything on their reports. 12 Q. You mentioned that you reviewed the experts' reports. 13 Which reports from plaintiffs' experts did 14 you review? 15 A. Well, for certain, Karl Hanson's and -- I'm blanking 16 on her name. Hang on a second. 17 Q. Dr. Letourneau? 18 A. Thank you. And Dr. Letourneau. And I reviewed -- so 19 I think I did this afterwards. I reviewed Dr. -- wait 20 a minute -- Rachael Goodman-Williams' report. 21 Q. Okay. That's one of the defendants' experts. 22 A. Yes. That was actually after I handed in my report. 23 The only two that I see here are Hanson's and 24 Letourneau's. 25 Q. Did you review Dr. Socia's report?</p> <p style="text-align: center;">Page 13</p>	<p>1 A. I don't see it here, so I don't remember. 2 Q. What about Dr. Zgoba? That's Z-g-o-b-a. 3 A. I can't remember every report that was sent to me. 4 The question is were they sent to me. Wait a minute. 5 Wait a minute. Wait a minute. I have a list. 6 Hanson's and -- well, Hanson's goes on for a while. 7 Q. So it sounds like you reviewed Dr. Hanson's, 8 Dr. Letourneau's? 9 A. Yes. I'm looking through the ones that were sent now, 10 but I haven't got past Hanson's yet. They are all in 11 a line. They weren't sent separately. 12 Q. I see. They were one? 13 A. They were one document which is why I can't do it 14 faster. Okay. There's Hanson's. Elizabeth 15 Letourneau's, there's Letourneau's. Well, okay. I 16 see a Letourneau's, James Prescott, a Kelly Socia, 17 Z-g-o-b-a. 18 Q. Okay. 19 A. John Aldrich; Lageson or "Lageson," L-a-g-e-s-o-n; 20 Barbara Levine; Anne Yanthis (phonetic); Richard 21 Stapleton, and that's the last one. Those were the 22 reports that were sent to me, and I read all of them. 23 Q. Okay. You read all of them. It doesn't sound like 24 you have a particular recollection of any of them 25 other than Dr. Hanson and Dr. Letourneau. Is that</p> <p style="text-align: center;">Page 14</p>
<p>1 accurate? 2 A. Most of them were addressing a different issue from 3 what I was asked to opine on. 4 Q. Okay. 5 A. So the answer is "yes." I remember the ones that I 6 referenced in my report. I don't remember the ones 7 that were essentially on a different issue. 8 Q. Sure, yeah. That makes sense. 9 And so the two that you referenced in your 10 report were Dr. Hanson and Dr. Letourneau, correct? 11 A. Yes. 12 Q. Okay. And then your report includes all the 13 criticisms of Dr. Hanson and Dr. Letourneau's reports 14 that you intend to offer in this case, correct? 15 A. As far as I know. I'll answer, of course, what I'm 16 asked subject to objections, but as far as I know, I'm 17 only going to be asked questions about my report. 18 Q. Okay. So as part of agreeing to serve as defendant's 19 expert in this case, did you learn what this case is 20 about? 21 A. Yes. 22 Q. And what do you believe this case to be about? 23 A. The efficacy of the registry, and if the registry does 24 stand, the suggestion of Static-99 be used to 25 determine who should be on it.</p> <p style="text-align: center;">Page 15</p>	<p>1 Q. Okay. So your understanding is that the question in 2 this case are whether the -- the efficacy of the 3 registry and whether the Static-99 be used to 4 determine whether people be on the registry. 5 That's your understanding of what the case 6 is about? 7 A. I don't know if it's just the efficacy, but whether or 8 not the registry should be allowed to continue. 9 Q. Okay. 10 A. And, yes, my particular part had to do with the second 11 part of that which is if there is a registry, that 12 Static-99 and not the offenses they were committed for 13 be used to determine -- 14 (At 10:24 a.m., Mr. Jamison was 15 disconnected from the videoconference.) 16 MS. AUKERMAN: Let's stop for a second, 17 doctor. Mr. Jamison just dropped off, so we need to 18 stop until he comes back. 19 (At 10:27 a.m., Mr. Jamison rejoins the 20 videoconference.) 21 BY MS. AUKERMAN: 22 Q. So Dr. Salter, we were talking about -- before 23 Mr. Jamison lost his internet connection, we were 24 talking about what you thought this case was about. 25 How did you learn what this case was about?</p> <p style="text-align: center;">Page 16</p>

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<p>1 A. Well, I was contacted by the attorneys. I've had 2 conversations with them, and they have sent me 3 materials relevant to the case. 4 Q. What materials relevant to the case have they sent 5 you? 6 A. Well, the expert reports and -- let's see. I can 7 provide you a list afterwards if you'd prefer. 8 Q. Yeah, if we can get a list afterwards of the documents 9 that you were sent. 10 MS. AUKERMAN: Is that okay, Mr. Jamison, so 11 that we don't spend a lot of time trying to track down 12 all of that? 13 MR. JAMISON: Yeah. I think my recollection 14 is she was given the expert reports and perhaps a copy 15 of the Complaint, and to my knowledge, there was 16 nothing else she was provided. 17 THE WITNESS: Yes. I was given a copy of 18 the Complaint. 19 BY MS. AUKERMAN: 20 Q. Okay. And did you read the Complaint? 21 A. Yes. 22 Q. What, if anything, do you know about the individual 23 plaintiffs in this case? 24 A. Nothing. 25 Q. Okay. And do you know what relief the plaintiffs in</p> <p style="text-align: center;">Page 17</p>	<p>1 this case are seeking, what they're asking for the 2 court to do? 3 A. I don't remember from the Complaint. I believe it was 4 to abolish the registry or -- well, to abolish the 5 registry. 6 Q. So your understanding of this case is based on your 7 conversations with the attorneys, what you read in the 8 expert reports, and the Complaint? 9 A. Yes. 10 Q. Okay. Were you familiar with this case outside of 11 those, the things I just listed? 12 A. No. 13 Q. Okay. We talked about the documents that you were 14 provided. Were you also provided the rebuttal reports 15 in this case? 16 A. No. Excuse me. Do you mean by the experts for the 17 defense? 18 Q. No. What I mean is there were reports written by 19 Dr. Canton and Dr. Socia that responded to the 20 defendants' expert reports including yours. 21 A. No. 22 Q. You were not provided those? 23 A. No. 24 Q. Were you provided any deposition testimony? 25 A. I don't believe so.</p> <p style="text-align: center;">Page 18</p>
<p>1 Q. Or a psychological record of any of the plaintiffs? 2 A. No. I know nothing about the plaintiffs. 3 Q. Are there any materials you asked for that you were 4 not provided? 5 A. No. 6 Q. Okay. Let's talk a little bit about the definitions 7 you use in your report. Throughout your report you 8 use the term "sex offender." 9 How do you define the term "sex offender"? 10 A. Someone who has committed an unlawful sexual act 11 whether or not it was detected. 12 Q. So you use the term in your report to mean anyone who 13 committed any kind of unlawful sexual act regardless 14 of the type of act? 15 A. Unlawful sexual. 16 Q. Okay. So you would include, for example, someone who 17 commits gross indecency? 18 A. Yes. They would be considered a sex offender. 19 Q. Or sodomy when it was legal? 20 A. I don't think today you would consider the person a 21 sex offender. 22 Q. But if they had a conviction on their record from an 23 unlawful sexual act, the unlawful sexual act is 24 sodomy, would they be a sex offender? 25 A. Well, yes. That would count in Static-99.</p> <p style="text-align: center;">Page 19</p>	<p>1 Q. Okay. What about prostitution? 2 A. Well, typically go by the Static-99 definitions, and 3 that depends. Prostitution, I believe, is a Category 4 B offense. It would count if there was at least one 5 Category A offense. 6 Q. So I just want to be clear. You're saying that you go 7 by the Static-99 definitions of who a sex offender is? 8 A. In prac- -- yes, in practicality. 9 Q. So there could be -- someone could have committed an 10 unlawful sexual act that doesn't count for the 11 Static-99, correct? 12 A. They could. And, actually, I have to take that back 13 'cause I can't say that I only go by that because say, 14 for example, child pornography doesn't count on 15 Static-99 unless they have a Category A offense. But 16 I would include someone who had child pornography 17 offenses as someone who is a sex offender. 18 Q. So it sounds like you're not going by simply whether 19 or not a person -- whether the offense was unlawful, 20 correct? 21 A. There are some exceptions, yes. 22 Q. Okay. And you're not going simply by what the 23 Static-99 requires or defines it as? 24 A. That's correct. 25 Q. Okay. Would you include teenage sexual activity where</p> <p style="text-align: center;">Page 20</p>

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<p>1 one person is not old enough to legally consent?</p> <p>2 The person that does that, is that person a</p> <p>3 sex offender?</p> <p>4 A. It depends on the difference in age, the general, and</p> <p>5 whether there was coercion.</p> <p>6 Q. Say there's no coercion and the difference in age is</p> <p>7 four years, four years and a month.</p> <p>8 A. Four years would count. Two years, generally, is not</p> <p>9 accepted in the field as coercion. A 17-year-old with</p> <p>10 a 15-year-old would not generally be considered a sex</p> <p>11 offender.</p> <p>12 Q. So you're saying that sexual activity with a willing</p> <p>13 but underage partner, whether or not that person</p> <p>14 counts as a sex offender, would depend -- in your</p> <p>15 view, would depend on the age difference?</p> <p>16 A. Yes. And, of course, whether the one party was</p> <p>17 disabled in any way.</p> <p>18 Q. Right. But we're talking about consensual. I mean</p> <p>19 not legally able to consent, but we're talking about a</p> <p>20 willing, nondisabled fully, you know, competent but</p> <p>21 underage young person having sexual activity with</p> <p>22 someone who is older than they are.</p> <p>23 A. Yes. That's correct. It depends on the age.</p> <p>24 Q. And what do you base that on?</p> <p>25 A. Oh, that's just generally accepted in the research in</p> <p style="text-align: center;">Page 21</p>	<p>1 the field.</p> <p>2 Q. Is there anything in the Static-99 definitions that</p> <p>3 specify certain age difference for someone to be a sex</p> <p>4 offender?</p> <p>5 A. I believe so.</p> <p>6 Q. And what is that age difference?</p> <p>7 A. I don't remember. I think it might be three years.</p> <p>8 Q. So if someone has an age gap of two years, they</p> <p>9 wouldn't be a sex offender in your view, even if that</p> <p>10 was illegal, correct?</p> <p>11 A. No. I mean, in general, sex offenders are people who</p> <p>12 commit unlawful sexual acts. There are exceptions as</p> <p>13 you are pointing out.</p> <p>14 Q. Okay. But when you use the term "sex offender" in</p> <p>15 your report, you're using it to mean people who commit</p> <p>16 an unlawful sexual act but with some exceptions,</p> <p>17 correct?</p> <p>18 A. That's true.</p> <p>19 Q. Okay. So let's take an example of one of our</p> <p>20 plaintiffs. He met a girl in an over-18 club. They</p> <p>21 hit it off. They had sex. It turns out she was</p> <p>22 underage.</p> <p>23 Do you consider that man to be a sex</p> <p>24 offender?</p> <p>25 A. How old was she?</p> <p style="text-align: center;">Page 22</p>
<p>1 Q. I believe she was 15.</p> <p>2 A. And how old was he?</p> <p>3 Q. I think he was more than four years older.</p> <p>4 A. More than four years older?</p> <p>5 Q. More than four years older, yes.</p> <p>6 A. Yes.</p> <p>7 Q. Even though he didn't know that she was underage?</p> <p>8 A. It's his responsibility to know. I don't think that's</p> <p>9 a defense in court.</p> <p>10 Q. Okay. So you would consider him a sex offender?</p> <p>11 A. Yes.</p> <p>12 Q. What about -- okay. Does the term sex offender mean</p> <p>13 the same thing each time you use it in your report?</p> <p>14 A. I would assume so. I can't think of examples -- at</p> <p>15 least at the present moment, I can't think of times</p> <p>16 that I used it differently.</p> <p>17 Q. And you said before that you're not restricting the</p> <p>18 term sexual offender to people who have been convicted</p> <p>19 of sex crimes, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. You include people who commit sex crimes but are not</p> <p>22 detected, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And so just to be clear, when you say "sex</p> <p>25 offender," you don't mean a registered sex offender</p> <p style="text-align: center;">Page 23</p>	<p>1 who's been convicted of a sex crime?</p> <p>2 A. No.</p> <p>3 Q. Michigan law sets out specific requirements for who is</p> <p>4 a registered sex offender. Do you know if everyone</p> <p>5 who's required to register as a sex offender in</p> <p>6 Michigan falls within your definition of sex offender?</p> <p>7 A. I was not asked to comment on the registry itself. I</p> <p>8 was only asked to comment on recidivism versus</p> <p>9 reoffending and the use of Static-99, so I did not</p> <p>10 study the Michigan Registry's laws.</p> <p>11 Q. Okay. So you're not -- you don't know anything about</p> <p>12 Michigan's Registry laws?</p> <p>13 A. Correct.</p> <p>14 Q. You didn't look at that?</p> <p>15 A. Very little. I didn't include anything about it in my</p> <p>16 report, and I'm testifying on my report.</p> <p>17 Q. And you're not testifying about the registry?</p> <p>18 A. I am not.</p> <p>19 Q. Your report distinguishes between recidivism and</p> <p>20 reoffending, and you define -- let me put your report</p> <p>21 back up again. This is Exhibit 1.</p> <p>22 Can you see your report again?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And so on the first bullet here, you said that</p> <p>25 there's a difference in recidivism which you define as</p> <p style="text-align: center;">Page 24</p>

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<p>1 getting caught and charged.</p> <p>2 If a person -- that's how you define</p> <p>3 recidivism, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. If a person is caught and charged only once, is</p> <p>6 that person a recidivist?</p> <p>7 A. Well, no. What I am saying is it's someone that --</p> <p>8 the only thing that recidivism measures is future</p> <p>9 charges and convictions.</p> <p>10 Q. Okay. So recidivism isn't simply getting caught and</p> <p>11 charged. It means getting caught and charged, and</p> <p>12 then getting caught and charged again, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So the definition of recidivism that you're</p> <p>15 using is when a person who has been detected by the</p> <p>16 criminal legal system is detected again by the</p> <p>17 criminal legal system, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And then you defined reoffending here as committing</p> <p>20 more than one sexual -- I'm sorry -- committing a</p> <p>21 sexual offense whether detected or undetected,</p> <p>22 correct?</p> <p>23 A. Yes. Assuming it was not the first sexual offense.</p> <p>24 (From 10:39 a.m. to 10:40 a.m., Mr. Jamison</p> <p>25 was disconnected from the videoconference.)</p> <p style="text-align: center;">Page 25</p>	<p>1 MR. JAMISON: I'm sorry. If I drop again,</p> <p>2 I'll just try to do it on my mobile phone.</p> <p>3 MS. AUKERMAN: Okay.</p> <p>4 BY MS. AUKERMAN:</p> <p>5 Q. So on reoffending, you mean that someone is committing</p> <p>6 multiple sexual offenses, whether they're detected in</p> <p>7 the criminal legal system, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. You're not measuring repeat offending to the</p> <p>10 point when a --</p> <p>11 (At 10:40 a.m., Mr. Jamison's connection is</p> <p>12 buffering.)</p> <p>13 MR. JAMISON: I'm gonna try it on my phone</p> <p>14 and see if I can log in that way.</p> <p>15 (From 10:40 a.m. to 10:44 a.m., off the</p> <p>16 record.)</p> <p>17 BY MS. AUKERMAN:</p> <p>18 Q. So before Mr. Jamison dropped off, we were talking</p> <p>19 about how you define reoffending, and my understanding</p> <p>20 is that you're measuring -- when you say</p> <p>21 "reoffending," you mean the person has committed more</p> <p>22 than once sexual offense detected or undetected,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you're not measuring reoffending from the point</p> <p style="text-align: center;">Page 26</p>
<p>1 when a person was first convicted, correct?</p> <p>2 A. No.</p> <p>3 Q. Okay. So a person who commits three sex offenses</p> <p>4 but is never caught would be a repeat offender as you</p> <p>5 define it, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And measuring whether someone has committed</p> <p>8 more than one offense is not the same as measuring</p> <p>9 whether someone has reoffended after a conviction,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. For people who reoffend after conviction, there could</p> <p>13 be observed recidivism, meaning they're detected by</p> <p>14 the legal system, correct?</p> <p>15 A. Well, yes. Anyone can be -- they can be -- anyone who</p> <p>16 commits sexual offenses can be detected at any point.</p> <p>17 Q. Right. So if they're reoffending after conviction,</p> <p>18 they're recidivating. If that's observed by the legal</p> <p>19 system, that would be observed recidivism, correct?</p> <p>20 A. Yes.</p> <p>21 Q. But there could also be unobserved recidivism, meaning</p> <p>22 they can offend after conviction, but they aren't</p> <p>23 detected by the criminal legal system?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. The definitions you use in your report didn't</p> <p style="text-align: center;">Page 27</p>	<p>1 include a term for reoffending after conviction,</p> <p>2 correct?</p> <p>3 A. I didn't -- I don't remember if I -- some of the</p> <p>4 research that I cited was definitely on reoffending</p> <p>5 after conviction. I don't know that I used a separate</p> <p>6 term for that. I just described what the research</p> <p>7 found.</p> <p>8 Q. Okay. So you didn't use a separate term for</p> <p>9 reoffending after conviction --</p> <p>10 A. No.</p> <p>11 Q. -- correct?</p> <p>12 A. It's a separate term.</p> <p>13 Q. And you said there was some research you cited that</p> <p>14 was specific to reoffending after conviction.</p> <p>15 Which research was that?</p> <p>16 A. Well, for example, the Kelly research certainly was.</p> <p>17 Q. Okay. Anything besides the Kelly research?</p> <p>18 A. I don't remember.</p> <p>19 Q. Okay. So just so that we're talking about the same</p> <p>20 thing, since your report doesn't separate out</p> <p>21 reoffending, meaning committing --</p> <p>22 (At 10:47 a.m., Mr. Jamison was</p> <p>23 disconnected from the videoconference.)</p> <p>24 MS. AUKERMAN: Oh, hold on. Let's go off</p> <p>25 the record again.</p> <p style="text-align: center;">Page 28</p>

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<p>1 (From 10:27 a.m. to 11:23 a.m., off the 2 record.) 3 MS. AUKERMAN: So just for the record, we 4 had a number of technical difficulties. We've been 5 off the record for some time trying to sort out how to 6 address those. But we seem to have everybody back, so 7 we'll resume the questioning. 8 BY MS. AUKERMAN: 9 Q. So I believe where we left off, Dr. Salter, is that 10 you were talking about how the definitions in your 11 report don't separately include a term for reoffending 12 after conviction, correct? 13 A. Yes. 14 Q. And so you're using the term -- you aren't using the 15 term reoffending to mean unobserved recidivism, 16 correct? 17 A. Unobserved recidivism, recidivism is by definition 18 charges and convictions, so it has to be observed to 19 be recidivism. 20 Q. Okay. I mean, different people use different 21 terminology. But the way you're using it, your report 22 doesn't separate out reoffending, meaning committing 23 more than one sex offense, from reoffending after 24 conviction, correct? 25 A. It doesn't use a separate term for it, but it</p> <p style="text-align: center;">Page 29</p>	<p>1 describes the conditions of the research. Some of it 2 which applies to just reoffending, whether or not they 3 were convicted. And the other research applies to -- 4 for example, Kelly, reoffending after an initial 5 charge or conviction. 6 Q. So -- 7 A. It's clear by the context. 8 Q. So the only -- I believe you said the only research 9 that you decided that relates specifically to 10 reoffending after conviction was the Kelly research, 11 correct? 12 A. No. There's other research. I said that's all I can 13 think of at the moment. But there's very little 14 research actually that can identify sex offenders 15 unless they have been detected. Most of the research, 16 like the Langevin or DeLisi, et cetera, is concerned 17 with individuals who are in the system. It should be 18 clear from the context which research is affirmed. 19 Q. But other than Kelly, can you point to any study that 20 specifically separates out reoffending after 21 conviction? 22 A. Well, for example, let's take a look at some of the 23 undetected research. Well, assuming I could find it. 24 All right. I believe that the Schenk study 25 had to be concerned for the adolescents who had</p> <p style="text-align: center;">Page 30</p>
<p>1 already been caught. 2 Q. I'm sorry. What page are you on? 3 A. Seven, next to last paragraph. 4 Q. So the -- I'm sorry. You're talking about the Schenk 5 study, okay. 6 A. DeLisi's studied 119 federal sexual offenders. 7 Q. I think you're misunderstanding my question, 8 Dr. Salter. I'm not asking whether the studies 9 involve people who had been convicted. I'm asking 10 whether they distinguish between reoffending before 11 and after conviction. That's a separate issue. 12 A. I would have to go back and read the research to 13 really answer that. 14 Q. Okay. But as you sit here today, you can't point to 15 any separate -- any study other than Kelly that looks 16 specifically at reoffending after conviction, correct? 17 A. That's the one that comes to mind. 18 Q. Okay. So just so we're clear that we're talking about 19 the same thing, when you use the term reoffending 20 today, I'm going to assume that you're talking about 21 committing multiple offenses regardless of whether 22 they're before or after conviction. Is that fair? 23 A. No. It depends on the context of the question that 24 you ask me. 25 Q. Okay. Just so we're clear, can you -- if you're</p> <p style="text-align: center;">Page 31</p>	<p>1 specifically talking about reoffending after 2 conviction, can you be specific and use the term 3 reoffending after conviction? 4 A. Yes. 5 Q. Okay, great. I just wanted to make sure we're talking 6 about the same thing and not miscommunicating. 7 Okay. Let's talk about in reviewing your 8 background, it appears that over the last 20 years 9 you've done quite a large number of assessments of 10 individuals who have been convicted of sex offenses in 11 order to evaluate their risk of committing new 12 offenses, correct? 13 A. Yes. 14 Q. Okay. And do you agree that among people convicted of 15 sex offenses, the risk of reoffending varies? 16 A. Yes. 17 Q. So some people are a higher risk to reoffend, and some 18 people are a lower risk to reoffend, correct? 19 A. Yes. 20 Q. And would you agree that looking simply at the offense 21 of conviction does not accurately predict a person's 22 risk of reoffending? 23 A. We don't -- the problem is we don't know what the risk 24 of reoffending is. 25 Q. That's not the question I'm asking you. I'm asking</p> <p style="text-align: center;">Page 32</p>

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<p>1 you whether looking at the offense of conviction</p> <p>2 accurately predicts a person's risk of reoffending?</p> <p>3 A. And my answer is we can only measure the risk of</p> <p>4 recidivism not of reoffending doesn't appear to</p> <p>5 accurately predict the risk of recidivism. Whether or</p> <p>6 not it predicts the reoffending, risk of reoffending,</p> <p>7 we don't know.</p> <p>8 Q. Okay. So you're saying that the offense of conviction</p> <p>9 doesn't predict recidivism?</p> <p>10 A. Recidivism.</p> <p>11 Q. Okay. And would you agree that actuarial risk</p> <p>12 assessment instruments are more accurate at predicting</p> <p>13 recidivism than looking simply at a person's</p> <p>14 conviction?</p> <p>15 MR. JAMISON: Objection. The question is</p> <p>16 vague.</p> <p>17 BY MS. AUKERMAN:</p> <p>18 Q. You may answer. Or let me restate that.</p> <p>19 A. Go ahead.</p> <p>20 Q. Do you agree that actuarial risk assessment</p> <p>21 instruments are more accurate at predicting recidivism</p> <p>22 than looking at a person's conviction?</p> <p>23 A. Recidivism, yes.</p> <p>24 Q. Okay. And would you agree that actuarial risk</p> <p>25 assessments are more accurate than unstructured</p> <p style="text-align: center;">Page 33</p>	<p>1 assessments by clinicians?</p> <p>2 A. In predicting what?</p> <p>3 Q. Predicting recidivism.</p> <p>4 A. Recidivism, yes.</p> <p>5 Q. Okay. There were a variety actuarial instruments that</p> <p>6 are used in the process of risk assessments, correct?</p> <p>7 A. Yes.</p> <p>8 Q. What are the most commonly used risk assessment tools?</p> <p>9 A. Static-99 and Static-2002R.</p> <p>10 Q. What are some of the other risk assessment tools that</p> <p>11 are used?</p> <p>12 A. Well, there are a variety. Well, there's the Thornton</p> <p>13 has in SACJ. There are -- I don't actually deal with</p> <p>14 the other ones. There are a variety of dynamic</p> <p>15 instruments which predict sexual recidivism such as</p> <p>16 the VRS-SO, and the stable 2007.</p> <p>17 Q. I also have here the CPORT. Are you familiar with the</p> <p>18 CPORT?</p> <p>19 A. Yes. But I haven't -- yes. I haven't used it,</p> <p>20 though, because it is for child pornography offenders.</p> <p>21 Q. And then the Violence Risk Scale, the VRS-SO, is that</p> <p>22 one that you used?</p> <p>23 A. I said that one.</p> <p>24 Q. I'm sorry. Yes, you did. I apologize.</p> <p>25 Did we mention the Baiser (phonetic)</p> <p style="text-align: center;">Page 34</p>
<p>1 already?</p> <p>2 A. I don't think so.</p> <p>3 Q. Is that one that you use?</p> <p>4 A. No.</p> <p>5 Q. Okay. The Psychopathy Checklist?</p> <p>6 A. Yes. Well, Psychopathy Checklist predicts violence,</p> <p>7 so it's not used solely for the protection of sexual</p> <p>8 offense recidivism.</p> <p>9 Q. Okay.</p> <p>10 A. In the kind of cases that I'm in, it is used as</p> <p>11 an instrument, but it's not the sole instrument used</p> <p>12 to predict sexual recidivism.</p> <p>13 Q. Are there any other assessment tools that are used to</p> <p>14 predict sexual recidivism?</p> <p>15 A. There probably are, but there aren't any that I used.</p> <p>16 Q. Okay. So you said that the Static-99R is the most</p> <p>17 likely used risk assessment instrument for measuring</p> <p>18 sexual recidivism, correct?</p> <p>19 A. Recidivism, yes.</p> <p>20 Q. Okay. But it's not normed for all populations; is</p> <p>21 that correct?</p> <p>22 A. No. I mean, yes. That is correct.</p> <p>23 Q. Yeah. And so, for example, it's not normed for people</p> <p>24 convicted of possessing child sexually abusive</p> <p>25 material, correct?</p> <p style="text-align: center;">Page 35</p>	<p>1 A. If that is the only offense, if they also have a</p> <p>2 hands-on offense, you can use it.</p> <p>3 I'm sorry. You can't use it if that type of</p> <p>4 offense is their only type of offense.</p> <p>5 Q. Okay. But in that case, you would use the CPORT</p> <p>6 instead, correct?</p> <p>7 A. Possibly. I have not used that because we don't get</p> <p>8 pure -- in the setting that I'm in, we don't get pure</p> <p>9 child porn offenders.</p> <p>10 Q. Okay. Which of the risk assessment tools are you</p> <p>11 trained to use?</p> <p>12 A. Well, the Static-99, the Static-2002. I have taken</p> <p>13 courses in the Stable. It was sometime ago. The</p> <p>14 Psychopathy Checklist, I'm certified in that, and I</p> <p>15 am -- I didn't mention it, but I'm certified to train</p> <p>16 in the Static-99R.</p> <p>17 Q. I read a number of evaluations that you've written,</p> <p>18 and a number of them contain the following language</p> <p>19 when you describe your credentials. Quote:</p> <p>20 "In order to do these evaluations, I</p> <p>21 have taken training from the authors of the</p> <p>22 most prominent static and dynamic tests. I've</p> <p>23 taken trainings on Static-99R and Static-2002R</p> <p>24 from David Thornton, Karl Hanson, Leslie</p> <p>25 Helmus." End quote.</p> <p style="text-align: center;">Page 36</p>

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<p>1 Is that an accurate description of what 2 you've written in some of your evaluations? 3 A. Yes. 4 Q. Okay. So Karl Hanson was one of the people that 5 you've taken training from? 6 A. Well, a number of trainings over the years. 7 Q. How many trainings did you do on the Static-99R? 8 A. Did I take? 9 Q. Did you take, yes. 10 A. Oh, I don't remember when I was. I don't even 11 remember. I've taken ongoing trainings on that 12 instrument and then certified to train on it. I don't 13 remember the number of trainings. 14 Q. And when were you certified to train on the 15 Static-99R? 16 A. I don't remember. It was in Wisconsin. I left there 17 years ago, but it was some years before that. 18 Q. And in the evaluations I've read, you wrote that, 19 quote, "I am certified by the Static-99R team to train 20 on scoring Static-99R." End quote. 21 Is that accurate? 22 A. Yes. 23 Q. Okay. And who is the "Static-99R team"? 24 A. Say again. 25 Q. Who is the Static-99R team? Who is that?</p> <p style="text-align: center;">Page 37</p>	<p>1 A. Well, there's certainly Karl Hanson, David Thornton, 2 Leslie Helmus. Let me see who else is on the team 3 now. Phenix, Amy Phenix. Let's see. I don't 4 remember if they are the people on the team now. 5 Q. I think that's fine. 6 You said that you were certified to train 7 others about the Static-99R. How many trainings have 8 you presented on the Static-99R? 9 A. I don't know. 10 Q. Roughly? 11 A. Well, I trained the department of corrections 12 regularly when I was in Wisconsin, so I haven't 13 trained on it since I left Wisconsin three years ago. 14 I was in the department of corrections from 1997 to 15 about 2000 and -- it must have been 2018, 2019. And I 16 can't say that I trained on it every year, but I 17 frequently trained on it during that period of time. 18 Q. Okay. Let's take a look at your CV. I'm showing what 19 should be Exhibit 4. 20 (Plaintiffs' Exhibit No. 4 was marked.) 21 BY MS. AUKERMAN: 22 Q. Let's see if I can make this screen bigger. I'm 23 having the same problem I had before. 24 A. I can see it if that's any help. 25 Q. All right. I guess I'll just try to work with the</p> <p style="text-align: center;">Page 38</p>
<p>1 smaller screen. 2 Is this -- we'll make this Exhibit 4. Is 3 this your CV? 4 A. Yes. 5 Q. And are there any changes in the CV since you 6 submitted it? 7 A. They've changed the USPS address again. It is no 8 longer Como. It's 300 Palomino Drive, Jefferson. 9 Q. And does this reflect your -- does this CV reflect 10 your current experience? 11 A. Yes. 12 Q. Okay. Now, let's go back to your report. Going back 13 to Exhibit 1, on page 2, you describe your background, 14 and you say that here on the second from the bottom 15 paragraph, "In recent years, I have concentrated on 16 the evaluation of sex offenders." 17 What do you mean by "in recent years"? 18 A. Well, I closed by private practice in -- let me think. 19 It was probably around 1998, 1999. And after that 20 point, I worked with corrections of Wisconsin on a 21 variety of tasks related to offenders with the civil 22 commitment system in Iowa. So I would say I've done 23 some work with victims since then, but I haven't 24 assessed or treated victims, I don't believe, since 25 around 2000.</p> <p style="text-align: center;">Page 39</p>	<p>1 Q. I'm sorry. You hadn't treated victims or offenders 2 since 2000? 3 A. That's correct. 4 Q. Let's go back to -- let's go back to your CV. This is 5 Exhibit 4. It looks like you closed your private 6 practice in 1996; is that correct? 7 A. If it says -- well, no. That's not entirely accurate. 8 I moved in 1996, but I had a private practice for a 9 couple of years after I moved in Wisconsin. 10 Q. Okay. That's not reflected on your CV, correct? 11 A. Not apparently. I didn't put it down. 12 Q. So you had a private practice in Wisconsin until about 13 2000? 14 A. No, later than 2000 for sure. 15 Q. Till when? 16 A. I'm not sure. In 1999, 2000, somewhere around there. 17 Q. Okay. And you were treating both victims and 18 offenders in that practice? 19 A. Treated mostly victims at that time. I wasn't running 20 offender groups. I did evaluate some offenders 21 outside my commitment to Wisconsin and Iowa in my 22 private practice. 23 Q. Okay. Let's talk first maybe about your Iowa work. 24 Your CV shows that you've been a Civil 25 Commitment Evaluator for the State of Iowa since 2003,</p> <p style="text-align: center;">Page 40</p>

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<p>1 correct?</p> <p>2 A. Yes, but in two different roles.</p> <p>3 Q. Right. So for 20 years you've been doing evaluations</p> <p>4 of people to determine if they are sexually violent</p> <p>5 predators under Iowa's civil commitment law, correct?</p> <p>6 A. Well, yes and no. In 2015, I gave up doing initial</p> <p>7 evaluations and concentrated on -- and I got the</p> <p>8 contracts in 2014 to do the annual re-evals.</p> <p>9 Q. So you were initially doing the initial evaluations,</p> <p>10 and then in 2015, you switched to doing exclusively</p> <p>11 the annual evaluations, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. But for the past 20 years, you've been doing</p> <p>14 evaluations, initial and annual -- or let me say that</p> <p>15 again.</p> <p>16 For about 20 years you've been doing</p> <p>17 evaluations of people under Iowa's Civil Commitment</p> <p>18 Program, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Are you still doing that work?</p> <p>21 A. Yes. But the contract ends in July, and I did not</p> <p>22 rebid it. So it will end -- well, I'll have to go to</p> <p>23 court some for the six months after that, but the</p> <p>24 official contract ends in July.</p> <p>25 Q. Are you retiring in July?</p> <p style="text-align: center;">Page 41</p>	<p>1 A. Semi. I'm retired from the rigors of a 12-month</p> <p>2 contract.</p> <p>3 Q. Will you continue to do other types of work?</p> <p>4 A. Yes.</p> <p>5 Q. And what would that be?</p> <p>6 A. I'm sure I'll continue training. I may or may not</p> <p>7 take legal cases, and I'm working on, you know, an</p> <p>8 academic paper with two other people. And I have</p> <p>9 another book that I want to write.</p> <p>10 Q. Okay.</p> <p>11 A. I hope to mainly write.</p> <p>12 Q. Just briefly, what is the academic paper on?</p> <p>13 A. It's on this question, the misuse of Static-99 and the</p> <p>14 claims that recidivism that Static-99 accurately</p> <p>15 measures reoffending.</p> <p>16 Q. And who are your coauthors with that?</p> <p>17 A. Darrell Turner is one. I believe he's involved in</p> <p>18 this case and -- I'm having a senior moment -- Michael</p> <p>19 Bourke.</p> <p>20 Q. Michael Bourke?</p> <p>21 A. Yes.</p> <p>22 Q. B-o-r-k?</p> <p>23 A. Wait a minute. I think it's B-o-u-r-k-e, but let's</p> <p>24 check to be sure. B-o-u-r-k-e.</p> <p>25 Q. And then you mentioned you're writing a book. What is</p> <p style="text-align: center;">Page 42</p>
<p>1 that about?</p> <p>2 A. Well, it's about sex offenders. It's a follow-up to</p> <p>3 my book, Predators, and it's, again, about motivation</p> <p>4 and thinking. It's going to have chapters on</p> <p>5 undetected offending and the issue with pretending</p> <p>6 that the justice gap doesn't exist. It will have</p> <p>7 chapters on counterintuitive behaviors in victims and</p> <p>8 the way that legal cases are lost because people</p> <p>9 misread victims' reactions that are perfectly normal</p> <p>10 in victims. It'll have a chapter on psychopathy.</p> <p>11 It'll have a chapter on sadism, et cetera.</p> <p>12 Q. And who is the audience for that book?</p> <p>13 A. Well, it's particularly for people who deal with sex</p> <p>14 offenders. Although, it may have a similar audience</p> <p>15 to my last book. It turned out it was very popular</p> <p>16 with victims who are not in the field.</p> <p>17 Q. Okay. We talked about the experience you have during</p> <p>18 evaluations under Iowa's Civil Commitment Program.</p> <p>19 Would you hold yourself out as an expert on</p> <p>20 evaluating individuals under Iowa's Civil Commitment</p> <p>21 Program?</p> <p>22 A. I certainly hope so, yes.</p> <p>23 Q. And my understanding is you were talking about this</p> <p>24 before that there's an initial procedure to determine</p> <p>25 whether the person should be civilly committed,</p> <p style="text-align: center;">Page 43</p>	<p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And am I correct that for a person to be civilly</p> <p>4 committed in Iowa, the court first has to determine</p> <p>5 that they're a sexually violent predator, right?</p> <p>6 A. Yes.</p> <p>7 Q. And to be found to be a sexually violent predator,</p> <p>8 they first have to be found to have a mental</p> <p>9 abnormality?</p> <p>10 A. Yes.</p> <p>11 Q. And they also have to be found more likely than not to</p> <p>12 engage in future acts of a sexually violent nature,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. So in these cases when you were doing your initial</p> <p>16 evaluations, you were doing a psychological evaluation</p> <p>17 of the individual to determine if the individual</p> <p>18 satisfies Iowa's criteria for civil commitment,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. I read online that Iowa's civil commitment facility</p> <p>22 has about 144 beds, and there were 138 individuals</p> <p>23 committed as of June 2021.</p> <p>24 Does that sound about right to you?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 44</p>

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<p>1 Q. And so among all the people convicted of sex offenses 2 in Iowa, these would be the ones the state has 3 determined to be the most dangerous, correct? 4 A. Well, the term "dangerous," it depends on how you mean 5 that. These are the ones that confirm to Iowa law. 6 But, for example, Iowa would civilly commit -- does 7 civilly commit exhibitionist, and under most 8 definitions of dangerous, it would not -- 9 exhibitionists would not necessarily be included. 10 Q. These are people that Iowa has determined are more 11 likely than not to commit another sexually violent 12 offense? 13 A. And that have a mental abnormality that predisposes 14 them to do that and an impairment and volition. 15 Q. And then you were describing how once a person has 16 been civilly committed, the person gets an annual 17 evaluation, correct? 18 A. Yes. 19 Q. And annual evaluations are to determine if the person 20 can be moved to a less secure setting or be released, 21 right? 22 A. Yes, transitional release program and/or -- well, 23 released. 24 Q. Okay. And so your CV indicates that from 2003 to 2015 25 you did initial evaluations to determine if someone</p> <p style="text-align: center;">Page 45</p>	<p>1 being released from prison qualifies as a sexually 2 violent predator who should be civilly committed, yes? 3 A. Yes. 4 Q. And I believe your CV said you did somewhat more than 5 100 of those civil commitment evaluations? 6 A. Somewhere around 103. 7 Q. Okay. In initial civil commitment cases there are 8 typically at least two evaluations done, correct? 9 One by the evaluator for the state of Iowa, 10 and one by the person retained by the person's defense 11 attorney; is that right? 12 A. Generally, yes. 13 Q. Okay. And for whom did you do the evaluations? 14 A. I had a contract with the state to do the evaluations. 15 Q. Okay. Were you ever hired by a defense attorney to be 16 their evaluator? 17 A. In Iowa, no. 18 Q. Okay. Were you paid -- I think you said you had a 19 contract, correct? 20 A. I had a contract for both, different contracts. But 21 one for the initial and then later a different type of 22 contract for the evals, for the re-evals. 23 Q. Were you paid by the evaluation, like per evaluation? 24 A. For the -- only for the initial SVPs. 25 Q. So the initial SVPs, it was like a payment per eval?</p> <p style="text-align: center;">Page 46</p>
<p>1 A. Yes. 2 Q. And then for the annual evaluations, what kind of 3 payment structure was that? 4 A. It was a lump sum divided into 12 months. 5 Q. Okay. What is the amount on the -- what were paid 6 for -- I'm sorry. 7 What were you paid for evaluation for the 8 initial SVP evals? 9 A. You were paid separately for the preliminary, for the 10 final. If you found that the person was, you know, 11 possibly an SVP, you went on to a final evaluation. 12 At that point, you've got to interview the person, and 13 you were paid. If you still thought they had 14 criteria, you were paid separately for going to court. 15 And I don't remember the exact fee structure. But I 16 think you were paid something like 2- or \$3,000 if you 17 ended up in court. And again, I don't remember this 18 clearly, but I think you were paid a similar amount 19 for the final eval and less for the initial. 20 Q. When you say "a similar amount," so it was 2 to 3K for 21 the initial preliminary and 2 to 3K for going to 22 court? 23 A. Well, there are three payments: initial, the final, 24 and going to court. But I don't remember the details. 25 I don't think any of them were over 3,000.</p> <p style="text-align: center;">Page 47</p>	<p>1 Q. Okay. So there were three payments somewhere 2 around -- somewhere under 3,000 but around 3,000? 3 A. That's what I think. 4 Q. And then how much were you paid? 5 What is the contract for the annual 6 evaluations? What is the amount of that? 7 A. Well, the contract for the annuals, I don't do all of 8 them. At this point, I only do three out of the ten a 9 month we are assigned, and I have subcontractors for 10 the other seven. We roughly do ten a month. 11 Sometimes it's 11 a month, something like that, and 12 the amount total is around 41,000 a month. And that 13 ends up being around 3,000 per eval. 14 Q. So you yourself would be getting about 9K per month 15 on -- 16 A. Yes. 17 Q. The annual evaluations by definition involve people 18 who were civilly committed at the end of their 19 criminal sentence because the court found them to have 20 a mental abnormality and to be more likely than not to 21 commit sexually violent acts, correct? 22 A. Yes. 23 Q. Your report says that you've done about 425 annual 24 evaluations. Is that right? 25 A. There's a few more by now, but in that ballpark, yes.</p> <p style="text-align: center;">Page 48</p>

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<p>1 Q. Does that include the ones done by subcontractors?</p> <p>2 A. No.</p> <p>3 Q. Okay. My understanding is that the annual evaluations</p> <p>4 don't always result in court proceedings; is that</p> <p>5 right?</p> <p>6 A. Excuse me for one second. Let me be sure I'm</p> <p>7 answering -- I can answer that question more</p> <p>8 precisely. I guess it's pretty close, 430. I believe</p> <p>9 I've done 430 annual evals by myself at this point.</p> <p>10 No. They are two different types of court</p> <p>11 proceedings. The patient signed something that says</p> <p>12 whether or not he even wants to go to court this year.</p> <p>13 So some patients think they're not ready. Or for</p> <p>14 various reasons, they don't want to go to court, so</p> <p>15 those don't go to court. We do an eval, but it</p> <p>16 doesn't go to court that year.</p> <p>17 Secondly, there is a judge who makes the</p> <p>18 decision about whether there's sufficient evidence to</p> <p>19 send it to a trial. They call it a hearing, but it</p> <p>20 has all the characteristics of a trial. So even if</p> <p>21 the patient asked to go to court, the only thing that</p> <p>22 they can control is that it will go to a judge. That</p> <p>23 initial hearing has -- they're not there. I am not</p> <p>24 there. It's the two attorneys and the judge, and I</p> <p>25 believe it's generally on the phone. And the judge</p> <p style="text-align: center;">Page 49</p>	<p>1 makes a decision about whether it goes to another</p> <p>2 trial.</p> <p>3 Q. And how many of those trials do you do a year?</p> <p>4 A. Well, that's really hard to say. The whole thing</p> <p>5 closed down in 2020 with COVID, and we didn't do any.</p> <p>6 And then I don't know if they're caught up yet. They</p> <p>7 are -- they're trying to catch up. So I'm saying it</p> <p>8 isn't normal right now. There's probably a few more</p> <p>9 than usual because of the backlog.</p> <p>10 I think I've done three or four thus far in</p> <p>11 2023. I know I have one next Thursday, and I believe</p> <p>12 I've done three this year thus far before the one next</p> <p>13 Thursday.</p> <p>14 Q. So of the 430 evaluations that you've done, how many</p> <p>15 of those would you say resulted in court proceedings?</p> <p>16 A. I'm sorry. How many would I say?</p> <p>17 Q. Resulted in court proceedings, went to this trial</p> <p>18 stage that you were describing.</p> <p>19 A. I really don't know. There's another variable as well</p> <p>20 which is when we stipulate that the person is ready</p> <p>21 for transitional release or release with supervision,</p> <p>22 we don't go to -- I don't go to court.</p> <p>23 Q. So --</p> <p>24 A. Excuse me. Let me be sure I'm clear with that. I</p> <p>25 don't go to court, but the issue goes to court. The</p> <p style="text-align: center;">Page 50</p>
<p>1 judge has to sign off on the TRP or release. But</p> <p>2 since it is not adversarial, I don't testify.</p> <p>3 Q. Okay. And so just to be clear of the roughly 430</p> <p>4 evaluations, annual evaluations that you've done,</p> <p>5 you've always been hired by the state, correct?</p> <p>6 A. Well, I have a contract with the state.</p> <p>7 Q. Okay. I spoke with an attorney who represents people</p> <p>8 in civil commitment proceedings in Iowa, and he told</p> <p>9 me that in 20 years, he's never once seen you</p> <p>10 recommend release in an annual evaluation. Is that</p> <p>11 accurate?</p> <p>12 A. No, that's silly. Of course I've recommended release</p> <p>13 in annual evaluations.</p> <p>14 Q. How many times have you recommended release?</p> <p>15 A. I don't know, but I certainly -- I certainly have.</p> <p>16 Q. When is the last time you've recommended release?</p> <p>17 A. I don't remember.</p> <p>18 Q. How long ago was it?</p> <p>19 A. Well, if I remembered, I could tell you. I don't</p> <p>20 remember how long ago since I recommended release of</p> <p>21 evaluation. Typically, I don't recommend release of</p> <p>22 evaluation until they have gone through the</p> <p>23 transitional release program because I believe in a</p> <p>24 gradual transition to the community.</p> <p>25 MS. AUKERMAN: Okay. Let's look at -- I'm</p> <p style="text-align: center;">Page 51</p>	<p>1 going to share my screen. This is the list of cases.</p> <p>2 Let's mark this as Exhibit 5. It's a list of legal</p> <p>3 cases in which you testified between 2020 and 2023.</p> <p>4 (Plaintiffs' Exhibit No. 5 was marked.)</p> <p>5 BY MS. AUKERMAN:</p> <p>6 Q. You put this list together, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And this shows eight cases in the last four years</p> <p>9 where you testified in SVP hearings, correct?</p> <p>10 A. Yes.</p> <p>11 Q. So let's just go through those quickly.</p> <p>12 "In Re The Detention of Alvin Barnes," did</p> <p>13 you recommend release in that case?</p> <p>14 A. I wouldn't be testifying if I recommended release. By</p> <p>15 listing the cases that I testified in, I am listing</p> <p>16 the cases where I did not recommend release. As I</p> <p>17 just said, I don't go to court if it is</p> <p>18 non-adversarial.</p> <p>19 Q. So is it fair to say that in all of the cases on this</p> <p>20 list -- the Jeffrey Goodwin, Vernon Pearson, Schuman</p> <p>21 Barker, Teepee, DeMoss, Shaffer -- you did not</p> <p>22 recommend release in any of those cases; is that</p> <p>23 correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And you don't recall in what cases you most recently</p> <p style="text-align: center;">Page 52</p>

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<p>1 recommended release?</p> <p>2 A. No, I don't.</p> <p>3 Q. Okay. Your report also talks about how you evaluated</p> <p>4 high-risk violent offenders for release from</p> <p>5 administrative confinement for the Wisconsin</p> <p>6 Department of Corrections, right?</p> <p>7 A. Yes.</p> <p>8 Q. Were those evaluations -- those were evaluations that</p> <p>9 were used by prison administrators for making</p> <p>10 classification decisions. Is that accurate?</p> <p>11 A. Well, yes and no, not from making initial</p> <p>12 classification decisions. These were particularly</p> <p>13 people who had either attacked guards or attacked</p> <p>14 other inmates and had been put in administrative</p> <p>15 confinement which is a type of segregation.</p> <p>16 The difficult question for corrections is</p> <p>17 always when can they let them out, and I did some of</p> <p>18 evaluations to determine when you could let them out.</p> <p>19 I should say these were not all sex offenders. Most</p> <p>20 of them were purely violent offenders.</p> <p>21 Q. Okay. How many of those evaluations did you do?</p> <p>22 A. I have no idea.</p> <p>23 Q. Ten? A hundred? Five hundred? Any estimate?</p> <p>24 A. No, it certainly wasn't. It was under 50; I'm sure.</p> <p>25 Q. So you didn't go to court in these cases; is that</p> <p style="text-align: center;">Page 53</p>	<p>1 accurate?</p> <p>2 A. No. Those were not court cases. The control of</p> <p>3 administrative confinement was under -- administrative</p> <p>4 confinement was under the control of the department of</p> <p>5 corrections.</p> <p>6 Q. So you were evaluating people who had engaged in</p> <p>7 typically violent activity that put them into</p> <p>8 administrative confinement for -- whether they could</p> <p>9 go back into a lower security setting?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. When's the last one of those that you did?</p> <p>12 A. I don't know. I quit working for corrections. I</p> <p>13 think it was either 2000- -- probably 2018, 2019.</p> <p>14 Q. Yeah. Your CV says 2019. Does that sound right?</p> <p>15 A. That does sound right.</p> <p>16 Q. Okay. Other than the evaluations that you've done for</p> <p>17 Iowa and Wisconsin, have you done other evaluations of</p> <p>18 people with past sex offenses?</p> <p>19 A. Yes.</p> <p>20 Q. Can you tell me about those?</p> <p>21 A. Well, in Wisconsin I had a private practice when I was</p> <p>22 sent offenders at times to evaluate. For example, the</p> <p>23 hospitals and a doctor who had been sexually</p> <p>24 offending. I have done a little work for other</p> <p>25 states, but I stopped doing that. The majority --</p> <p style="text-align: center;">Page 54</p>
<p>1 Q. So I just want to -- let's just go through these one</p> <p>2 at a time.</p> <p>3 So you said in Wisconsin you had -- I</p> <p>4 believe you said you had your private practice until</p> <p>5 around 2000, is that right, what you testified to</p> <p>6 before?</p> <p>7 A. I think it was 1999. But at the same time, yes, I had</p> <p>8 a private practice and I was also working for the</p> <p>9 department of corrections all that time.</p> <p>10 Q. And when you say you were referred people to evaluate,</p> <p>11 how many such referrals did you get?</p> <p>12 A. I don't know. You mean in that time when I had my</p> <p>13 private practice in Wisconsin?</p> <p>14 Q. Um-hmm.</p> <p>15 A. I don't know. I was also -- I should clarify that I</p> <p>16 did not just evaluate violent offenders for</p> <p>17 administrative refinement for corrections. I was</p> <p>18 often -- I also did some initial classification</p> <p>19 evaluations for sex offenders to determine what kind</p> <p>20 of treatment, what level of treatment they should go</p> <p>21 into.</p> <p>22 I also was asked to do evaluations at</p> <p>23 different prisons for treatment purposes or generally</p> <p>24 for management purposes when they had someone who was</p> <p>25 self-harming or doing some other kind of unacceptable</p> <p style="text-align: center;">Page 55</p>	<p>1 behavior, being violent to other inmates. So I did a</p> <p>2 variety of evaluations for the department of</p> <p>3 corrections when I was there.</p> <p>4 Q. Before we're talking about corrections in Wisconsin, I</p> <p>5 believe your report says that you took on a variety of</p> <p>6 special projects related to sex offenders and violent</p> <p>7 offenders.</p> <p>8 Is there anything other than what you</p> <p>9 described just now?</p> <p>10 A. Well, sure. I helped get the polygraph program</p> <p>11 started. I designed a curriculum with some other</p> <p>12 people for treating sex offenders in their -- they</p> <p>13 have layers of sex offender treatment, but their</p> <p>14 intensive program.</p> <p>15 Of course, I did training in Wisconsin</p> <p>16 Corrections. I worked with juvenile corrections for a</p> <p>17 period of time. I did do some individual -- actually,</p> <p>18 I'll take that back. I think I didn't do individual</p> <p>19 evals of juveniles until I was working with the</p> <p>20 Tri-Counties Project. I don't think I did them with</p> <p>21 corrections. So basically, I did whatever projects I</p> <p>22 was assigned.</p> <p>23 Q. And how many hours a week were you working with the</p> <p>24 department of corrections in Wisconsin?</p> <p>25 A. I could work up to 50 percent, but I often didn't.</p> <p style="text-align: center;">Page 56</p>

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<p>1 They often didn't have anything they needed me to do.</p> <p>2 I mean, they didn't have enough that took up to</p> <p>3 50 percent, and we had an arrangement that I only</p> <p>4 billed for the hours I actually worked.</p> <p>5 Q. How many hours did you work on average a week?</p> <p>6 A. I don't know. In the beginning, I think I worked half</p> <p>7 time, and eventually -- I don't know. It just</p> <p>8 differed week to week, but it was never over half</p> <p>9 time.</p> <p>10 Q. Let's go back to talking about evaluations that you've</p> <p>11 done other than Iowa and Wisconsin. We were talking</p> <p>12 about how you were in private practice in Wisconsin</p> <p>13 before 1999, and you were sometimes sent people to</p> <p>14 evaluate.</p> <p>15 Who referred those cases to you?</p> <p>16 A. Well, I mentioned the hospital referred one. There</p> <p>17 were actually some, not many, that self-referred. I</p> <p>18 was also referred cases from other clinicians who</p> <p>19 didn't work with sex offenders. I was referred</p> <p>20 cases -- well, actually, I ran a sex offender group</p> <p>21 for the community mental health center even after I</p> <p>22 went to private practice and left the community health</p> <p>23 system. I initially -- I'm sorry. I'm confusing</p> <p>24 Wisconsin with New Hampshire. Let me scratch the last</p> <p>25 part of that answer.</p> <p style="text-align: center;">Page 57</p>	<p>1 I worked with community corrections in New</p> <p>2 England. I did not work with community corrections in</p> <p>3 Wisconsin. I was sent cases by judges. Although, I</p> <p>4 don't -- by the court. I don't remember. I don't</p> <p>5 think that happen very often, and I don't specifically</p> <p>6 remember it. I was also referred cases by attorneys</p> <p>7 at times.</p> <p>8 But, generally, in Wisconsin, I had a --</p> <p>9 well, I'm sorry. I don't think I answered that</p> <p>10 correctly. What I just said was applicable to my time</p> <p>11 in New England. In Wisconsin, if you're only talking</p> <p>12 about the private practice and not corrections, I only</p> <p>13 ran it for a couple of years, and the only cases I</p> <p>14 remember came from attorneys.</p> <p>15 Q. And how many were those?</p> <p>16 A. Oh, I don't know, not very many. I only ran it for</p> <p>17 three years.</p> <p>18 Q. So like three, five maybe?</p> <p>19 A. Maybe.</p> <p>20 Q. And when you say you were referred by attorneys, what</p> <p>21 kind of legal proceedings were involved?</p> <p>22 A. Typically -- well, could be criminal, could be civil.</p> <p>23 Q. What was the purpose of the evaluation?</p> <p>24 A. Well, I don't remember these evaluations very well.</p> <p>25 We're talking about 1999, so I can't give you a</p> <p style="text-align: center;">Page 58</p>
<p>1 specific answer. Typically, when I was referred cases</p> <p>2 by attorneys, it's for things like whether they can be</p> <p>3 safely put in the community. These were not SVP</p> <p>4 cases. Well, that -- well, I did some SVP cases for</p> <p>5 corrections, but I didn't do them in my private</p> <p>6 practice.</p> <p>7 Q. Were the evaluations that you did in the private</p> <p>8 practice -- did those involve typically high-risk</p> <p>9 individuals?</p> <p>10 A. Are you talking about Wisconsin?</p> <p>11 Q. Wisconsin.</p> <p>12 A. Or New England?</p> <p>13 Q. Yeah, Wisconsin.</p> <p>14 A. Not necessarily in the private practice. They tended</p> <p>15 to be high-risk in corrections.</p> <p>16 Q. And in New England, what was -- what kind of</p> <p>17 evaluations did you do there?</p> <p>18 A. Well, that's where I was sent cases. First of all, I</p> <p>19 worked for community mental health, and then I worked</p> <p>20 for the department of psychiatry in New England. I</p> <p>21 believe I ran groups in both of those cases. I also</p> <p>22 took some outside cases of sex offenders. They were</p> <p>23 not necessarily high-risk offenders. Although, some</p> <p>24 were, and, as I said, some were self-referred.</p> <p>25 Q. What was the profile people who were self referred?</p> <p style="text-align: center;">Page 59</p>	<p>1 A. What do you mean by "profile"?</p> <p>2 Q. I mean why were they coming to you. Were they coming</p> <p>3 for treatment? Were they coming for an evaluation?</p> <p>4 A. Self-referred was usually treatment. They are people</p> <p>5 who are attracted, for example, to children who don't</p> <p>6 want to be, and are deeply troubled by it and want</p> <p>7 help.</p> <p>8 Q. So how many -- how many individual evaluations have</p> <p>9 you done besides those for Iowa and Wisconsin?</p> <p>10 A. I don't really know. For Iowa -- you mean, while I</p> <p>11 was there including private practice or you mean --</p> <p>12 Q. I'm excluding anything that you've done for the state</p> <p>13 of Wisconsin or the state of Iowa. How many other</p> <p>14 individual evaluations have you done?</p> <p>15 A. Very few. I quit traveling for individual evaluations</p> <p>16 years ago.</p> <p>17 Q. Okay. So in the last 20 decades, almost all of your</p> <p>18 evaluations have been -- not 20 decades.</p> <p>19 A. I'm not that old.</p> <p>20 Q. No, no. None of us are. Although, it would be nice</p> <p>21 to get that old. Wouldn't it?</p> <p>22 In the last two decades, is it fair to say</p> <p>23 that most of your evaluations have been in the -- or</p> <p>24 let me put that differently. In the last two decades,</p> <p>25 your evaluations have been in the context of civil</p> <p style="text-align: center;">Page 60</p>

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<p>1 commitment or for the state of Wisconsin correctional 2 management issues? 3 A. Yes. 4 Q. Let's go back to -- I'm sorry. Go ahead. 5 A. Before you ask a question, can we just take a 6 two-minute break? 7 Q. Absolutely, let's come back at -- is 12:20 too soon? 8 A. That's fine. 9 Q. Okay. 10 (From 12:17 p.m. to 12:20 p.m., recess was 11 taken.) 12 BY MS. AUKERMAN: 13 Q. So let's take a look at and go back to the chart of 14 cases that you sent over. Let me share my screen 15 again. 16 We talked before about the -- well, just for 17 the record, your expert report does not contain a list 18 of your prior expert testimony in the last four years, 19 correct? 20 A. Correct. 21 Q. But after we requested, you put this list together, 22 correct? 23 A. Yes. 24 Q. And you list three cases besides the civil commitment 25 cases where you testified as an expert in the last</p> <p style="text-align: center;">Page 61</p>	<p>1 four years, right? 2 A. Well, I didn't necessarily testify. The Hawaiian case 3 settled, for example, and so did the last case. 4 Q. Okay. That's a fair point. But there's three cases 5 listed besides the civil commitment cases, correct? 6 A. Yes. 7 Q. Okay. So the first of those is this N.D. by Makaha 8 Hawaii Congregation case. 9 A. Yes. 10 Q. And is that a state court case? 11 A. It's a Circuit Court of the First Circuit. I actually 12 don't know whether -- I assume it had to be a state 13 case. 14 Q. Okay. And I believe you sent over the case number 15 this morning. 16 A. Not this morning. I sent over the case number 17 sometime ago. And then I was told you couldn't find 18 them, and I copied the first pages of the depositions 19 which should have had all the information. And I sent 20 that. And, again, that was maybe last week. 21 MS. AUKERMAN: Okay. Just for the record, 22 we didn't receive it until this morning. 23 BY MS. AUKERMAN: 24 Q. What was that case about? 25 A. It was about standards for institutions, child-serving</p> <p style="text-align: center;">Page 62</p>
<p>1 institutions. So it was about a woman who was abused 2 as a girl by a -- I think they called him elder of the 3 Congregation of Jehovah's Witnesses. It's in a 4 particular, you know, area in Hawaii. And whether or 5 not the Jehovah's Witnesses were liable for the fact 6 that they didn't do anything about it, and he offended 7 again. 8 Q. And what was the topic of your report? 9 A. Whether they were liable or not. Whether, 10 according -- whether they had -- they followed the 11 standards of good practices in terms of preventing 12 sexual assault in youth-serving institutions. 13 Q. Okay. And I believe you said that you never testified 14 in that case, correct? 15 A. No. The Jehovah's Witnesses settled it. 16 Q. Do you know if your report was ever submitted to the 17 court? 18 A. I don't know what went to the court. I know I was 19 deposed in that case. 20 Q. Do you know if anyone objected to your being qualified 21 as an expert in that case? 22 A. Not to my knowledge. 23 Q. But you never testified in court, so there was never 24 any determination whether you were an expert, correct? 25 A. I never testified in court.</p> <p style="text-align: center;">Page 63</p>	<p>1 Q. The next one in this list is People of the State of 2 California v. Martin Field, correct? 3 A. Yes. 4 Q. And you said that that was in San Bernardino County 5 Superior Court, correct? 6 A. Yes. 7 Q. You listed that as a civil case. That was a civil 8 case? 9 A. Well, I assume it was civil. It certainly wasn't a 10 criminal case with a defendant. It was -- the topic 11 was whether or not SVP evaluators could compel people 12 referred for an evaluation for SVP purposes to have an 13 interview. 14 Q. Okay. Was it a civil commitment case? 15 A. No. It wasn't a case about a particular person. It 16 was a case about an issue. I mean, a particular 17 person brought it, but it was about whether they could 18 be compelled to testify -- to interview. 19 Q. In SVP proceedings? 20 A. Yes. 21 Q. And who retained you for that? 22 A. The prosecution retained me. 23 Q. And, I'm sorry. I should have asked you. For the 24 N.D., you were retained there by the plaintiff who had 25 been abused?</p> <p style="text-align: center;">Page 64</p>

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<p>1 A. Yes.</p> <p>2 Q. Okay. Do you know who represented the defendant in</p> <p>3 the Martin Field case?</p> <p>4 A. No, but it should be on the page of the deposition</p> <p>5 that I sent you.</p> <p>6 Q. Okay. And in the Field case, you testified in</p> <p>7 September 2022, correct?</p> <p>8 A. Let me see. Where is it?</p> <p>9 Yes, I did testify in that case.</p> <p>10 Q. Do you know if anyone objected to your being qualified</p> <p>11 as an expert in that case?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. And what were you qualified as an expert -- were you</p> <p>14 qualified as an expert?</p> <p>15 A. I'm sure I was because I testified. I don't remember</p> <p>16 any concerns about my being an expert.</p> <p>17 Q. Do you recall what you were qualified as an expert on?</p> <p>18 A. No. It would have been -- I'm generally qualified as</p> <p>19 an expert on sexual abuse, child sexual abuse, adult</p> <p>20 sexual abuse. I've done evaluation SPV, predator</p> <p>21 evaluations. I don't remember specifically the</p> <p>22 language used in this case.</p> <p>23 Q. So I just want to make sure I've got that. You're</p> <p>24 generally qualified as an expert on child abuse,</p> <p>25 sexual abuse?</p> <p style="text-align: center;">Page 65</p>	<p>1 A. Yes.</p> <p>2 Q. And what else?</p> <p>3 A. Violent offenders, generally.</p> <p>4 Q. Okay. And when you say "generally qualified," you're</p> <p>5 referring to civil commitment proceedings?</p> <p>6 A. Well, I am qualified. I've always been qualified in</p> <p>7 civil commitment proceedings, but in other cases like</p> <p>8 this which are not civil commitment proceedings, I</p> <p>9 have been qualified as an expert as well.</p> <p>10 Q. Okay. So I wanted to draw down a little bit more into</p> <p>11 each of those cases where you've been qualified as a</p> <p>12 civil commitment contact.</p> <p>13 But you don't recall what you were qualified</p> <p>14 as an expert on in People v. Field?</p> <p>15 A. I don't remember the specific language, no.</p> <p>16 Q. Okay. And then the next one is A.L. at the bottom</p> <p>17 here, the plaintiff against the Family Foundation</p> <p>18 School?</p> <p>19 A. Yes.</p> <p>20 Q. That was a civil case in the U.S. District Court in</p> <p>21 the Northern District of New York; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. What was that case about?</p> <p>24 A. The Family Foundation School was supposedly a school.</p> <p>25 It was a residential setting for supposedly acting out</p> <p style="text-align: center;">Page 66</p>
<p>1 adolescences. It was actually highly abusive</p> <p>2 punishment. Techniques included, for example,</p> <p>3 wrapping a kid in a carpet and leaving them there for</p> <p>4 five days with only dog or cat food in front of them</p> <p>5 that they could eat. The case was by individuals who</p> <p>6 had been at that school and were now older and were</p> <p>7 suing the school for abuse.</p> <p>8 Q. And who retained you in that case?</p> <p>9 A. The plaintiffs.</p> <p>10 Q. And what did you write an expert report on?</p> <p>11 A. Whether they -- whether the school was abusive or not.</p> <p>12 Q. Okay. Were there allegations of sexual abuse?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall who represented the other side in that</p> <p>15 case?</p> <p>16 A. No. But, again, I sent you the front page of a</p> <p>17 deposition, I believe, so you should have that</p> <p>18 information.</p> <p>19 Q. Okay.</p> <p>20 A. But it didn't go to court. It was settled.</p> <p>21 Q. Do you know if your report was ever submitted to the</p> <p>22 court?</p> <p>23 A. No.</p> <p>24 Q. So the court never qualified you as an expert since it</p> <p>25 didn't go to court, correct?</p> <p style="text-align: center;">Page 67</p>	<p>1 A. I don't know, but I know I didn't go to court.</p> <p>2 Q. Okay. Your CV says that from 1980 to present you</p> <p>3 testified as an expert in both civil and criminal</p> <p>4 trials.</p> <p>5 Excluding the civil commitment cases, how</p> <p>6 many times have you been retained as an expert?</p> <p>7 A. I don't know. I have speculated just counting on how</p> <p>8 long I've been in the field and how many cases I've</p> <p>9 done that it was probably around 200.</p> <p>10 Q. Okay. In the last three years -- in the last four</p> <p>11 years, there have been three, correct?</p> <p>12 A. Yes. I'm winding down, but for a long time I did</p> <p>13 seven or eight a year.</p> <p>14 Q. When is the last time that you did seven or eight a</p> <p>15 year?</p> <p>16 A. I don't know. It's been a gradual pulling back.</p> <p>17 Q. Okay. How many of your cases have been in federal</p> <p>18 court versus state court?</p> <p>19 A. No idea.</p> <p>20 Q. How many times have you testified as an expert in</p> <p>21 civil cases in the last ten years?</p> <p>22 A. I can't tell you. I've never kept a master list.</p> <p>23 Q. You've testified in federal court, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Are you aware that the federal rules require you to</p> <p style="text-align: center;">Page 68</p>

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<p>1 keep a list or add a list of your past testimony?</p> <p>2 A. Yes. But I have whenever that's come up, and I've</p> <p>3 done one. I did in this case. I have tried to</p> <p>4 reconstruct the last several years.</p> <p>5 Q. Do you have any of those prior lists that you've</p> <p>6 reconstructed?</p> <p>7 A. No. I had a computer disaster in 2020, and I lost a</p> <p>8 lot of data.</p> <p>9 Q. So you don't know how many times you've testified as</p> <p>10 an expert in civil cases in the last ten years?</p> <p>11 A. That's correct.</p> <p>12 Q. Do you know how many times you've testified in</p> <p>13 criminal cases in the last ten years?</p> <p>14 A. No.</p> <p>15 Q. Could you estimate how many times you've testified in</p> <p>16 criminal cases in the last ten years?</p> <p>17 A. Until I left Wisconsin, I worked frequently with the</p> <p>18 AG's office, so I testified fairly regularly in</p> <p>19 criminal cases, although, generally, about things like</p> <p>20 counterintuitive behavior in victims and the nature of</p> <p>21 disclosure. I can't tell you how many times it was,</p> <p>22 but it was a pretty regular occurrence.</p> <p>23 Q. What other types of issues, if any, have you testified</p> <p>24 about in criminal cases?</p> <p>25 A. Well, I have testified against the idea of a profile.</p> <p style="text-align: center;">Page 69</p>	<p>1 I don't testify that there is a profile of offenders</p> <p>2 because I don't believe there is one. I have</p> <p>3 testified that, you know, whether they're rich or poor</p> <p>4 or well educated or not is irrelevant to the issue at</p> <p>5 hand.</p> <p>6 As I said, I've testified many times on</p> <p>7 delayed disclosure. I increasingly began to testify</p> <p>8 on counterintuitive victim behaviors. I've testified</p> <p>9 in some torture cases, but I can't remember the exact</p> <p>10 questions I was asked or the exact topics.</p> <p>11 I have testified about child development. I</p> <p>12 have a master's in child development, and I have --</p> <p>13 for example, I remember testifying against a church</p> <p>14 that was beating six-week-olds for not paying</p> <p>15 attention to the sermon. That's an accurate</p> <p>16 statement. A variety of issues. I've testified about</p> <p>17 interviewing in suggestibility, testified about the</p> <p>18 research on suggestibility.</p> <p>19 Q. And these were criminal cases that we're talking about</p> <p>20 now, correct?</p> <p>21 A. Yeah, these are criminal cases.</p> <p>22 Q. And I think your report says that your criminal cases</p> <p>23 you testified particularly in the areas of the impact</p> <p>24 of child sexual abuse on victims, delayed disclosure</p> <p>25 of sexual abuse, and counterintuitive victim</p> <p style="text-align: center;">Page 70</p>
<p>1 behaviors.</p> <p>2 Is that an accurate description of the</p> <p>3 general area of your testimony in criminal cases?</p> <p>4 A. Well, you're right. I have also testified on the</p> <p>5 impact of sexual abuse on victims, and I think I've</p> <p>6 named several other issues in addition to those three.</p> <p>7 But those three are the most common things I've</p> <p>8 testified about.</p> <p>9 Q. And in criminal cases, how many times have you been</p> <p>10 retained by prosecutors?</p> <p>11 A. I've always been retained by prosecutors.</p> <p>12 Q. You've never been retained by defense attorneys?</p> <p>13 A. Well, I think once or twice many years ago.</p> <p>14 Q. When's the last time that you've testified in a</p> <p>15 criminal case?</p> <p>16 A. It would have been in Wisconsin; I believe. But I</p> <p>17 don't remember the year. I left there in 2019.</p> <p>18 Q. So you haven't testified in a criminal case since</p> <p>19 sometime before 2019?</p> <p>20 A. Yes, that's correct.</p> <p>21 Q. Okay. And in criminal cases, have there ever been</p> <p>22 objections to you being qualified as an expert?</p> <p>23 A. There was a -- I don't remember how many times there</p> <p>24 have been objections. I've always been qualified, to</p> <p>25 my knowledge. I was told by a judge at one point that</p> <p style="text-align: center;">Page 71</p>	<p>1 I couldn't talk about cults because I hadn't had</p> <p>2 enough experience with them, and I think that's the</p> <p>3 only thing I've been told I wasn't qualified to talk</p> <p>4 about in court.</p> <p>5 Q. What were you qualified to testify on in criminal</p> <p>6 cases?</p> <p>7 A. And I would tell you generally on child sexual abuse,</p> <p>8 offender assessment and treatment. Specifically under</p> <p>9 child sexual abuse the things that we listed: impact</p> <p>10 on victims, disclosure, delayed disclosure,</p> <p>11 counterintuitive victim behaviors, the ways in which</p> <p>12 offenders create counterintuitive victim behaviors,</p> <p>13 those kinds of issues.</p> <p>14 Q. And in terms of civil cases, when's the last time the</p> <p>15 three that you listed that we talked about before --</p> <p>16 before those, when is the last one that you did?</p> <p>17 A. I don't remember.</p> <p>18 Q. Okay. Roughly, how many civil cases have you</p> <p>19 testified in -- setting aside civil commitment</p> <p>20 cases -- in the last ten years?</p> <p>21 A. I couldn't tell you. I've never -- I couldn't tell</p> <p>22 you even if you combined it with criminal cases. As I</p> <p>23 said, I never kept a master list.</p> <p>24 Q. Ten? Five? Fifty? Can you estimate?</p> <p>25 A. Well, it certainly wouldn't be over 50.</p> <p style="text-align: center;">Page 72</p>

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<p>1 Q. So closer to ten?</p> <p>2 A. I can't tell you any closer than that.</p> <p>3 Q. Okay. In civil cases, have there ever been objections</p> <p>4 to you being qualified as an expert?</p> <p>5 A. I don't remember any objections, at least none that</p> <p>6 went through. By that I mean none that the judge</p> <p>7 agreed with.</p> <p>8 Q. So there may have been objections, but you were still</p> <p>9 asked to testify?</p> <p>10 A. As far as I know. I mean, I don't remember specific</p> <p>11 objections.</p> <p>12 Q. Do you recall if a court ever limited -- aside from</p> <p>13 the cult example, do you recall the court ever limited</p> <p>14 what you could testify to?</p> <p>15 A. Well, the court has limited what the prosecution could</p> <p>16 present, for example, data on false reports, but</p> <p>17 that's different from saying that I'm not an expert in</p> <p>18 those areas. They ruled that it was more prejudicial</p> <p>19 than probative.</p> <p>20 Q. Sure. I mean, typically courts qualify experts on a</p> <p>21 particular topic, and what I'm trying to understand is</p> <p>22 what courts have qualified you to be an expert on.</p> <p>23 A. I can only answer as I did before, generally, on child</p> <p>24 sexual abuse, adult sexual abuse, assessment and</p> <p>25 treatment of offenders, assessment and treatment of</p> <p style="text-align: center;">Page 73</p>	<p>1 victim's impact of sexual abuse. Those are some of</p> <p>2 the specific topics. Delayed disclosure,</p> <p>3 counterintuitive victim behaviors and so forth. But I</p> <p>4 don't remember every court narrowing it to one issue.</p> <p>5 It seems to me that I have been qualified generally as</p> <p>6 an expert on, for example, child sexual abuse or adult</p> <p>7 sexual abuse.</p> <p>8 Q. Okay. In the civil cases, how many times have you</p> <p>9 been represented -- have you been retained by counsel</p> <p>10 representing civil plaintiffs?</p> <p>11 A. Well, I can't tell you that I have a rule for whether</p> <p>12 I'll take a civil case or not. Most of the civil</p> <p>13 cases I've been approached about have been</p> <p>14 institutional malfeasance cases. Was the institution</p> <p>15 responsible for the abuse of this child? Could they</p> <p>16 have prevented it in some way? Where their protocols</p> <p>17 accurate and state of the art?</p> <p>18 And my general rule is that if the</p> <p>19 institution -- if the institution asks me to testify,</p> <p>20 my decision point is whether or not they had any</p> <p>21 warning that person was a sex offender. In other</p> <p>22 words, had anyone reported him, you know, if he was</p> <p>23 found communicating with children online when he</p> <p>24 wasn't supposed to, et cetera. If the institution had</p> <p>25 no warning -- I don't believe you can pick a sex</p> <p style="text-align: center;">Page 74</p>
<p>1 offender out of the general population -- then I will</p> <p>2 testify. If the institution had warning, I won't</p> <p>3 testify for them.</p> <p>4 And the same thing is true if I'm approached</p> <p>5 on the other side. The issue is twofold. It's what</p> <p>6 year was it because that determines what we knew about</p> <p>7 sexual abuse at that time, and what the standards</p> <p>8 were. And, secondly, the issue of notification, had</p> <p>9 the institution been notified in some way that this guy</p> <p>10 might be molesting children.</p> <p>11 Q. So let me see if I understand this background</p> <p>12 correctly. In the last 20 years or so, you've</p> <p>13 testified in civil commitment proceedings about</p> <p>14 psychological evaluations that you've done, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you've testified in three civil cases in the last</p> <p>17 four years, correct?</p> <p>18 A. To the best of my knowledge, yes.</p> <p>19 Q. And you've testified in -- you don't remember how</p> <p>20 many, but in other civil cases, served broadly about</p> <p>21 sexual abuse, child abuse, victim impacts, and similar</p> <p>22 issues?</p> <p>23 A. Yes.</p> <p>24 Q. And you've testified in criminal cases about the</p> <p>25 impact of child sexual abuse on victims, the late</p> <p style="text-align: center;">Page 75</p>	<p>1 disclosure of sexual abuse, and counterintuitive</p> <p>2 victim behaviors, correct?</p> <p>3 A. Those are the most common ones, yes.</p> <p>4 Q. And you've been retained by the state in civil</p> <p>5 commitment proceedings, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you've been retained by prosecutors in criminal</p> <p>8 proceedings, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you don't recall being retained except, perhaps,</p> <p>11 once or twice long ago by defense counsel?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Other than the things that we've talked about,</p> <p>14 are there any other areas where you would hold</p> <p>15 yourself out to be an expert?</p> <p>16 A. I can't think of any.</p> <p>17 Q. Let's talk a little bit sort of what you're paid for</p> <p>18 your expert work. And we talked about already the</p> <p>19 contract with the state of Iowa.</p> <p>20 You also have an annual income from expert</p> <p>21 services, correct?</p> <p>22 A. What do you mean by "expert services"?</p> <p>23 Q. Things like --</p> <p>24 A. Testifying in court, that kind of thing?</p> <p>25 Q. Testifying in court, writing reports like the one that</p> <p style="text-align: center;">Page 76</p>

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<p>1 you wrote.</p> <p>2 A. Yes.</p> <p>3 Q. And how much is your annual income for those types of</p> <p>4 work?</p> <p>5 A. I have no idea.</p> <p>6 Q. You don't know how much you make?</p> <p>7 A. No, I don't. At this time, I have income from a</p> <p>8 variety of sources including Social Security,</p> <p>9 retirement funds, investments, et cetera. And as I</p> <p>10 said, since I moved in the last three years, I started</p> <p>11 withdrawing. I only take cases that I care about,</p> <p>12 really care about. And I'm closing out the contract</p> <p>13 with Iowa, so it's been changing.</p> <p>14 Also, COVID interrupted a lot of court</p> <p>15 testimony. It's been changing every year over the</p> <p>16 last three years, so I haven't separated out the</p> <p>17 income from testifying in expert cases, for example,</p> <p>18 from the income from the Iowa contract.</p> <p>19 Q. Do you do your taxes?</p> <p>20 A. No. I certainly do not personally.</p> <p>21 Q. You don't personally do your taxes?</p> <p>22 A. No, I do not.</p> <p>23 Q. But you have someone do your taxes, and then you sign</p> <p>24 your tax forms, correct?</p> <p>25 A. I do. I pay my taxes, and I have an accountant who</p> <p style="text-align: center;">Page 77</p>	<p>1 keeps track of all of that and does my tax filings at</p> <p>2 the end of the year.</p> <p>3 Q. And does your tax return show what your income is from</p> <p>4 expert services?</p> <p>5 A. I don't really know how it's broken down.</p> <p>6 Q. So do you --</p> <p>7 A. I can --</p> <p>8 Q. Go ahead.</p> <p>9 A. I can certainly ask him if he separated out expert</p> <p>10 services from the Iowa income. But they're all 1099s,</p> <p>11 so I don't know that he did. He certainly -- I'm an</p> <p>12 S-Corporation, so he certainly has my business taxes</p> <p>13 separate from the other income that I have. But I</p> <p>14 don't know if he subdivides according to the ways in</p> <p>15 which you are looking for.</p> <p>16 Q. What is your annual income?</p> <p>17 A. It's around -- this last year I think it was around</p> <p>18 180,000.</p> <p>19 Q. Do you know what percentage of that comes from the</p> <p>20 Iowa contract?</p> <p>21 A. No. I mean, that information is certainly available,</p> <p>22 but I don't have it on the tip of my tongue.</p> <p>23 Q. The 180-, is that -- what sources of income does that</p> <p>24 include?</p> <p>25 There's the Iowa contract. There's your</p> <p style="text-align: center;">Page 78</p>
<p>1 expert services. What else does that include?</p> <p>2 A. That includes Social Security that you have to pay</p> <p>3 taxes on. That includes retirement funds from the</p> <p>4 department of corrections. That includes funds from</p> <p>5 my private retirement accounts.</p> <p>6 Q. So your testimony is that you don't know how much you</p> <p>7 get from expert services?</p> <p>8 A. That's correct. I don't know. As I told you, I can</p> <p>9 tell you roughly how much -- how big the checks are</p> <p>10 from Iowa which are going to end this month -- next</p> <p>11 month, but from the occasional court cases that I</p> <p>12 take, I don't know. And, also, I still do trainings</p> <p>13 as well.</p> <p>14 Q. What do you bill for trainings?</p> <p>15 A. It's 3500 a day, and I typically do all-day trainings.</p> <p>16 Q. And your annual rate is three -- excuse me -- your</p> <p>17 hourly rate is 350?</p> <p>18 A. Yes.</p> <p>19 Q. That's what you billed the defendants in this case?</p> <p>20 A. Yes.</p> <p>21 Q. How many hours have you worked on this case?</p> <p>22 A. Well, I can pull up the bill for the defendants. I</p> <p>23 mean the -- yeah, defendants in this case. I should</p> <p>24 be able to.</p> <p>25 Looks like -- I don't know if I did anything</p> <p style="text-align: center;">Page 79</p>	<p>1 after this. But the report writing was 22 and a half</p> <p>2 hours, and the total was \$7,875.</p> <p>3 Q. And that includes the report writing, your discussions</p> <p>4 with the attorneys, reviewing materials, correct?</p> <p>5 A. Yes. Although, I don't usually charge for the initial</p> <p>6 consultation.</p> <p>7 Q. But that doesn't include work that you've done since</p> <p>8 the report was written?</p> <p>9 A. Well, in preparation for this, certainly not. It</p> <p>10 doesn't include that.</p> <p>11 Q. Do you have any prior work with the state of Michigan</p> <p>12 or any of the individual defendants?</p> <p>13 A. Not for any of the individual defendants. I might</p> <p>14 have had criminal cases in Michigan, one or two over</p> <p>15 the years. I'm not sure.</p> <p>16 Q. Any other prior work with the defendants' attorneys?</p> <p>17 A. No, not that I know of.</p> <p>18 Q. Are you working with the defendants or their attorneys</p> <p>19 on any other cases?</p> <p>20 A. No.</p> <p>21 Q. Are you familiar with the work of scholars in your</p> <p>22 field?</p> <p>23 A. I hope so.</p> <p>24 Q. What do you do to keep up with the literature?</p> <p>25 A. Well, I read research. These days, you can get almost</p> <p style="text-align: center;">Page 80</p>

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<p>1 all of the research off the Web. It's quite different</p> <p>2 than it used to be. I tend to look up research on</p> <p>3 specific topics, for example, undetected offending,</p> <p>4 Static-99, et cetera. There's a wonderful variety of</p> <p>5 journals out there, and they typically have more</p> <p>6 up-to-date research than the books. Although, I do</p> <p>7 have a higher library of books on sexual abuse.</p> <p>8 Q. What journals do you read?</p> <p>9 A. Well, the ATSA Journal. I'm a member of ATSA. I</p> <p>10 found the Journal of Interpersonal Violence is very</p> <p>11 helpful. Sometimes -- I belong to ResearchGate, so</p> <p>12 generally I can get articles directly from the</p> <p>13 authors. So I will -- you know, the research is</p> <p>14 spread through a variety of journals, the criminal</p> <p>15 justice and behavior, behavior in the law.</p> <p>16 American Psychologist never has anything</p> <p>17 that's useful, so I don't read that. The Journal of</p> <p>18 Child Sexual Abuse often does. But I typically don't</p> <p>19 just read these cover to cover. I look at the topic</p> <p>20 that I'm interested in, and then I go to whatever</p> <p>21 journals have articles on that topic.</p> <p>22 Q. So you're not subscribing to journals, right?</p> <p>23 A. Well, I get the Journal of -- the ATSA Journal, and I</p> <p>24 should get the Criminal -- I get the Criminal Justice</p> <p>25 Journal. But, frankly, even with ATSA, I look up the</p> <p style="text-align: center;">Page 81</p>	<p>1 journal on the Net because I can get it for free. And</p> <p>2 also, if you're a member of ATSA, of course, you get</p> <p>3 access to the SAGE criminology series. So I subscribe</p> <p>4 to a lot fewer journals that I used to because I can</p> <p>5 get them on -- I can get the articles on the Net.</p> <p>6 Q. So your typical way to keep up with the field is to do</p> <p>7 literature searches for topics you're interested in?</p> <p>8 A. Yes.</p> <p>9 Q. Rather than reading through journals in the field?</p> <p>10 A. Rather than reading a journal cover to cover, I may</p> <p>11 look at that journal and see which of those articles</p> <p>12 are relevant to what I'm doing or interested in. But,</p> <p>13 yes, that's how I do it.</p> <p>14 Q. Okay. We talked about receiving training from</p> <p>15 Dr. Karl Hanson. Are you familiar with his scholarly</p> <p>16 work?</p> <p>17 A. Yes.</p> <p>18 Q. Is it fair to say that his work is widely cited?</p> <p>19 A. Yes.</p> <p>20 Q. And is it fair to say he's considered one of the top</p> <p>21 authorities in the field?</p> <p>22 A. Yes.</p> <p>23 Q. Are you familiar with the work of Dr. Elizabeth</p> <p>24 Letourneau?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 82</p>
<p>1 Q. Were you familiar with it before this case?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Is it fair to say that her work is widely</p> <p>4 cited?</p> <p>5 A. Yes.</p> <p>6 Q. And it's also fair to say that she is considered one</p> <p>7 of the top authorities in her field?</p> <p>8 A. Yes.</p> <p>9 Q. Are you familiar with the work of Dr. Kelly Socia?</p> <p>10 A. Less so. I can't tell you how widely she's cited.</p> <p>11 Q. It's a he, actually. Were you familiar with the work</p> <p>12 of Dr. Socia before this case?</p> <p>13 A. I don't know whether I've read articles by him or not.</p> <p>14 Q. What about James J. Prescott, are you familiar with</p> <p>15 his work?</p> <p>16 A. No. I'm not really.</p> <p>17 Q. So he doesn't publish in a field that is the same as</p> <p>18 yours. Is that accurate?</p> <p>19 A. Well, I haven't run across his work. That's all I can</p> <p>20 say.</p> <p>21 Q. What about Kristen Zgoba, Dr. Kristen Zgoba, are you</p> <p>22 familiar with her work?</p> <p>23 A. I may have come across articles by any of these</p> <p>24 experts, but I haven't followed their work like I have</p> <p>25 Karl's and Letourneau's, but especially Karl's. He's</p> <p style="text-align: center;">Page 83</p>	<p>1 contributed a great deal to the field.</p> <p>2 Q. For the ones that you're not following, is it fair to</p> <p>3 say that their work is in the fields that you're not</p> <p>4 focused on?</p> <p>5 A. Some of them for sure. I guess probably all of them,</p> <p>6 but I can't remember all of them at this point.</p> <p>7 Q. Okay. Let's talk about the Static-99, Static-99R. I</p> <p>8 mean, there's obviously various versions of it.</p> <p>9 How many static assessments have you scored</p> <p>10 in your career?</p> <p>11 A. Oh, my God. I don't know. Probably over 500.</p> <p>12 Q. And you also score other risk assessments, both for</p> <p>13 Static and 99 factors, correct?</p> <p>14 A. At times, yes.</p> <p>15 Q. Are you currently using risk assessment instruments</p> <p>16 when you do evaluations?</p> <p>17 A. I use -- currently, I use Static instruments and</p> <p>18 sometimes dynamic.</p> <p>19 Q. And which static instruments do you use?</p> <p>20 A. Static-99R. I don't use Static-2002R.</p> <p>21 Q. And which dynamic ones do you use?</p> <p>22 A. I tried to VRS-SO. I don't find it helpful in my</p> <p>23 situation. Lately, I've been using Stable-2007.</p> <p>24 Q. You've also used the Static-99 in -- strike that.</p> <p>25 Have you included Static-99 scores in your</p> <p style="text-align: center;">Page 84</p>

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<p>1 recent evaluations and re-evaluations?</p> <p>2 A. In the most recent ones. There was a period of time</p> <p>3 that I wasn't using it for re-evals.</p> <p>4 Q. And why is that?</p> <p>5 A. Because it can't change their treatment, and my -- it</p> <p>6 won't change their treatment. And my job is to</p> <p>7 determine, I believe, whether or not the person had</p> <p>8 lowered their risk to reoffend primarily through</p> <p>9 treatment. Static-99, if they came in with a 6, and</p> <p>10 they didn't -- or a high score, no matter how much</p> <p>11 treatment they did, unless they got into a new age</p> <p>12 category, the patients were unlikely to have a</p> <p>13 different Static-99R score. So I didn't really think</p> <p>14 it was fair to include the Static-99R in an evaluation</p> <p>15 of treatment progress.</p> <p>16 Q. Okay. You use Static-99R in initial SVP commitment</p> <p>17 evaluations, correct?</p> <p>18 A. Yes, I did.</p> <p>19 Q. I'm going to show you -- this is a transcript in a</p> <p>20 case In Re The Detention of Stewart Schuman.</p> <p>21 Did you testify in this case?</p> <p>22 A. Yes.</p> <p>23 Q. And this was a civil commitment proceeding?</p> <p>24 A. Yes.</p> <p>25 Q. And you testified on page 123 of this transcript your</p> <p style="text-align: center;">Page 85</p>	<p>1 discussions of Static-99. Can you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And it says -- and you testified that the Static-99,</p> <p>4 quote:</p> <p>5 "...predicts recidivism, I believe -- at</p> <p>6 least ranking of recidivism -- well. And it's</p> <p>7 very useful in initial SVP evaluations. I use</p> <p>8 it in initial SVP evaluations."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And that was your testimony in that case?</p> <p>12 A. Yes.</p> <p>13 Q. Do you still agree with that statement?</p> <p>14 A. Yes. It's useful for recidivism.</p> <p>15 Q. Okay. Let's go back to your report. This is</p> <p>16 Exhibit 1.</p> <p>17 MS. AUKERMAN: I'm sorry. I should have</p> <p>18 given you the -- marked that last one. That last</p> <p>19 exhibit was Exhibit 6, the Schuman transcript.</p> <p>20 (Plaintiffs' Exhibit No. 6 was marked.)</p> <p>21 BY MS. AUKERMAN:</p> <p>22 Q. Going back to Exhibit 1 which is your report, on page</p> <p>23 3 you write that the Static-99 -- you talk about the</p> <p>24 Static-99. You said that it "measures recidivism of</p> <p>25 adult male sex offenders, or the likelihood that</p> <p style="text-align: center;">Page 86</p>
<p>1 someone who has previously committed a sexual offense</p> <p>2 will be charged or convicted of another" offense.</p> <p>3 A. Yes.</p> <p>4 Q. When you say "previously committed a sexual offense,"</p> <p>5 the Static-99 cannot be used on people who have</p> <p>6 committed an offense but not been charged and</p> <p>7 convicted, correct?</p> <p>8 A. That's correct. That's probably badly phrased. I</p> <p>9 should have put that in there.</p> <p>10 Q. So basically, it'd be more accurate to say that the</p> <p>11 Static-99 measures recidivism of adult male offenders</p> <p>12 more than the likelihood that someone who has</p> <p>13 previously been charged or convicted of a sexual</p> <p>14 offense will be charged or convicted of another one,</p> <p>15 correct?</p> <p>16 A. Yes. That is more correct.</p> <p>17 Q. Okay. Let's go back to the top of your report. You</p> <p>18 say in the fourth bullet on page 1 here, "proponents</p> <p>19 of Static-99R have switched to claiming Static-99R</p> <p>20 measures reoffending," by which we're using your</p> <p>21 definition of reoffending meaning committing a sexual</p> <p>22 offense whether it's detected or undetected.</p> <p>23 What proponents are you referring to here?</p> <p>24 A. Well, there's -- it's a variety of them, but the ones</p> <p>25 in this case were Karl and Elizabeth Letourneau, and I</p> <p style="text-align: center;">Page 87</p>	<p>1 believe that Dr. Hanson repeatedly talked about</p> <p>2 reoffending. I read many statements in the past by</p> <p>3 Letourneau saying that the reoffending rates, et</p> <p>4 cetera, are low, and there's no justification for</p> <p>5 saying that they're high. So both of those experts,</p> <p>6 to the best of my knowledge, have based their</p> <p>7 statements on Static-99 findings.</p> <p>8 Q. So your specific statement here is that these</p> <p>9 proponents, by whom you mean Dr. Hanson and</p> <p>10 Dr. Letourneau, are claiming that the Static-99R</p> <p>11 measures for reoffending. That's what you're saying?</p> <p>12 A. Yes.</p> <p>13 Q. Can you point me to a passage in Dr. Hanson's report</p> <p>14 where he says that the Static-99 measures the</p> <p>15 likelihood of committing an offense regardless of</p> <p>16 whether one is detected?</p> <p>17 I'm not talking about whether he's using the</p> <p>18 term reoffending. I'm asking you to find me a passage</p> <p>19 where he discusses the Static-99 as measuring</p> <p>20 reoffending.</p> <p>21 A. He does that by referring to the outcome of Static-99</p> <p>22 as reoffending. He does that repeatedly in his</p> <p>23 report.</p> <p>24 Q. Okay.</p> <p>25 MR. JAMISON: Sorry, Dr. Salter. I'll place</p> <p style="text-align: center;">Page 88</p>

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<p>1 an objection on the record to the extent you're asking 2 her a question implying that you want her to review or 3 rereview a 70 page -- a 60 or 70 page report and try 4 to find one line in his expert report. 5 MS. AUKERMAN: She's making a statement. 6 Objection is noted. 7 BY MS. AUKERMAN: 8 Q. Dr. Salter, you make a statement that you're basically 9 saying that Dr. Hanson is saying Static-99 measures -- 10 A. Yes. 11 Q. Measures undetected offending. I'm asking you to 12 point me to something in his report that says that 13 Static-99 measures undetected offending. 14 A. Wait a minute. I'm going through three of them. 15 It's really everywhere. There is -- page 16 10, "There's scientific and professional consensus 17 that are an average individuals with more risk factors 18 are higher risk to reoffend." We don't know that. 19 Q. Static-99 does not -- he doesn't discuss the Static-99 20 there, correct? 21 A. He's using reoffending in place of recidivism. 22 Q. But what I'm asking you is to point me to something 23 where he says that the Static-99 measures on 24 undetected offenders. 25 I understand that you quarrel with his use</p> <p style="text-align: center;">Page 89</p>	<p>1 with the word reoffending. I'm asking you to point me 2 to something that supports your statement that he 3 suggests Static-99 measures reoffending. 4 A. Well, page 20, "Risk assessment tools exist to predict 5 the risk of sexual reoffending." 6 They don't predict reoffending. 7 Q. Okay. Let's look back at your report again. 8 A. I can give you more if you want them. 9 Q. I think we're talking at cross purposes here. Let's 10 look at -- hold on a second. Let's go back to your 11 report. 12 A. Well, do you want more examples of this 'cause I can 13 give them to you? 14 Q. Let me go back to Hanson's report. Why don't you give 15 me one more example, then. 16 A. Okay. Page 29, first paragraph, bottom of first 17 paragraph: "Research has long shown that the longer 18 an individual remains free of arrest or convictions, 19 the lower the chance of reoffending." 20 Q. That doesn't say anything about the Static-99, though. 21 Does it? 22 A. That research is based on instruments from the 23 Static-99 and other instruments. It's simply not true 24 that we know that. What we know is -- 25 Q. What I'm asking you -- Dr. Salter, what I'm asking you</p> <p style="text-align: center;">Page 90</p>
<p>1 is where that says -- where he says that Static-99 is 2 measuring undetected offending. Is there anything 3 that says that? 4 A. I'm saying -- 5 Q. You're saying that -- okay. 6 MR. JAMISON: You're interrupting her, and 7 you don't let her finish her answer. You have to let 8 her finish her answer, before you try to interrupt 9 her. 10 THE WITNESS: My answer is -- 11 MS. AUKERMAN: She's not answering my 12 question, but okay. 13 BY MS. AUKERMAN: 14 Q. Go ahead. I'm sorry. What paragraph were you on? 15 A. First paragraph. 16 Q. On page 29? 17 A. Yes. My answer is that he repeatedly refers to 18 research based on the Static-99 that predicts 19 recidivism, and he, instead, says that it predicts 20 reoffending. The research that has shown the longer 21 an individual remains free of arrest or convictions -- 22 the research shows the lower the chance of getting 23 caught for a new offense or recidivism. It doesn't 24 say anything about reoffending. 25 And I quoted you earlier where he says that</p> <p style="text-align: center;">Page 91</p>	<p>1 Static-99 -- wait a minute -- "risk assessment tools 2 exist to predict the risk of sexual reoffending." 3 Static-99R is a risk assessment tool. He says it 4 bluntly that it predicts the risk of sexual 5 reoffending on page 20. And then he refers throughout 6 the thing to research that predicts recidivism and 7 says instead that it's predicting reoffending. 8 Q. That's not what I'm asking you. I'm asking on page 9 40 -- on paragraph 47 that you cited, he never uses 10 the term Static-99, correct? 11 A. He says "risk assessment instruments." 12 Q. But in paragraph 47, he doesn't say risk assessment 13 instruments? 14 A. Page 47? Wait a minute. What are you saying? 15 Q. You said the first paragraph on page 29, which is 16 paragraph 47 of his report. 17 A. He says "research." The research is based on 18 Static-99 and other static instruments, and it is not 19 accurate. 20 Q. Let's move on. In your report on page 4 -- let me 21 show you. You say that, "...in this case, Static-99R 22 is being recommended as a stand-alone risk assessment 23 instrument." 24 On what basis do you conclude that the 25 Static-99R is being recommended as a stand-alone risk</p> <p style="text-align: center;">Page 92</p>

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<p>1 assessment?</p> <p>2 A. Well, that's my understanding from his report. But as</p> <p>3 you say, it is a long report, so I don't know that I</p> <p>4 can find that instantly. And if it isn't being</p> <p>5 recommended, that's great.</p> <p>6 Q. So your statement is based -- it's not based on</p> <p>7 anything the plaintiffs have filed in this case or</p> <p>8 any -- I should say any of the pleadings written by</p> <p>9 the lawyers in this case, correct?</p> <p>10 A. Well, I'm not -- actually, I do think it's based. For</p> <p>11 example, on page 2, Dr. Hanson says under A, "the risk</p> <p>12 for sexual recidivism can be reliably predicted by</p> <p>13 widely-used risk assessment tool such as Static-99R</p> <p>14 which are used to classify individuals into various</p> <p>15 risk levels."</p> <p>16 Now, with that said, immediately after D</p> <p>17 where he says don't use the nature of the sex offense</p> <p>18 conviction, and in E, he doesn't say anything about</p> <p>19 adding anything else to Static-99.</p> <p>20 Q. Okay. You did not -- you testified you didn't read</p> <p>21 his rebuttal report, correct?</p> <p>22 A. No. I haven't been sent it, but I will.</p> <p>23 Q. Okay. So your conclusion that the Static-99R is being</p> <p>24 recommended as a stand-alone risk assessment is based</p> <p>25 on Dr. Hanson's report?</p> <p style="text-align: center;">Page 93</p>	<p>1 A. Yes. I don't remember if anyone else recommended it.</p> <p>2 Q. Okay. Is it also based on your conversations with the</p> <p>3 attorneys?</p> <p>4 A. Yes.</p> <p>5 Q. On page 2 of your report -- let's see. You express</p> <p>6 concern that the Static-99 is not a comprehensive risk</p> <p>7 assessment tool because it measures only static risk</p> <p>8 factors and not dynamic factors, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you've talked about the fact that there are</p> <p>11 assessment tools that measures dynamic risk factors,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And those include the Stable, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And are you aware that there are mechanical rules for</p> <p>17 combining the Static-99R with the Stable, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And are you aware that the Stable can be scored by the</p> <p>20 first professionals including probation officers,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Are you aware that the Michigan Department of</p> <p>24 Corrections does both Static-99R and Stable</p> <p>25 assessments?</p> <p style="text-align: center;">Page 94</p>
<p>1 A. Yes.</p> <p>2 Q. When you were consultant for the Wisconsin Department</p> <p>3 of Corrections, do you know if the Wisconsin</p> <p>4 Department of Corrections used the Static-99R?</p> <p>5 I mean, I believe you testified that you</p> <p>6 trained on the Static-99R there?</p> <p>7 A. Yes. But they went back and forth over the years over</p> <p>8 who could score it. Psychologists could always score</p> <p>9 it, but for some years, they allowed probation and</p> <p>10 parole officers to score it as well.</p> <p>11 Q. And how is the Static-99R used by the Wisconsin</p> <p>12 Department of Corrections?</p> <p>13 A. Well, I've been gone for four years. I don't know how</p> <p>14 they're using it now. But at the time, the</p> <p>15 psychologists certainly used it in making assessments,</p> <p>16 oddly. Well, I don't -- I don't know exactly. I</p> <p>17 don't remember the diverse ways in which they use</p> <p>18 Static-99. But I did train on it, and they did use</p> <p>19 it.</p> <p>20 Q. Did they still --</p> <p>21 A. Excuse me. They certainly used it for determining who</p> <p>22 should be referred for civil commitment.</p> <p>23 Q. Did they use it for classification decisions?</p> <p>24 A. No. When I worked in classification, they had a list</p> <p>25 of questions you were supposed to ask the person. It</p> <p style="text-align: center;">Page 95</p>	<p>1 did not include Static-99 scores. I don't know if</p> <p>2 they do now.</p> <p>3 Q. Did they use it for treatment decisions?</p> <p>4 A. Not for the initial treatment decisions. I don't know</p> <p>5 about after they got in a treatment program if they</p> <p>6 were ever moved up or down according to their</p> <p>7 Static-99R score. But for the initial classification</p> <p>8 of which, whether they went into something that</p> <p>9 resembled outpatient treatment one or two groups a</p> <p>10 week, or the intensive treatment program, they did not</p> <p>11 use Static-99 when I was there.</p> <p>12 Q. Was it used in combination with other assessment</p> <p>13 tools?</p> <p>14 A. Not -- well, they used Compass for a while. I don't</p> <p>15 know how they combined it with Compass. And I wasn't</p> <p>16 involved in Compass, so I can't tell you. I think</p> <p>17 they may have used Stable for a while. I have no</p> <p>18 memory of them using the VRS-SO.</p> <p>19 Q. Is it fair to say that while you were there, the</p> <p>20 department of corrections in Wisconsin used risk</p> <p>21 assessment tools for a variety of purposes,</p> <p>22 correctional purposes?</p> <p>23 A. Yes.</p> <p>24 Q. And they did that routinely, correct?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 96</p>

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<p>1 Q. I'm going to show you another article. This is an</p> <p>2 article by Helmus that you cite in your report.</p> <p>3 MS. AUKERMAN: This is Exhibit 17. We're a</p> <p>4 little bit out of order.</p> <p>5 (Plaintiffs' Exhibit No. 17 was marked.)</p> <p>6 BY MS. AUKERMAN:</p> <p>7 Q. Do you recognize this article? This article is on</p> <p>8 Static-99.</p> <p>9 A. Yes.</p> <p>10 Q. And you cite this in your report, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. It discusses -- in this article Helmus and</p> <p>13 coauthors discuss the use of the Static-99, and here</p> <p>14 they write:</p> <p>15 "...although actuarial risk scales like</p> <p>16 the Static-99R cannot account for all</p> <p>17 risk-relevant information, every study</p> <p>18 examining the use of professional discretion</p> <p>19 to adjust actuarial results have found that</p> <p>20 overrides degrade predictive accuracy."</p> <p>21 And it further writes that unstructured overrides in</p> <p>22 the Static-99R "tends to lead to overestimation of</p> <p>23 risk."</p> <p>24 Do you agree with this?</p> <p>25 A. Well, certainly not the second one. That's another</p> <p style="text-align: center;">Page 97</p>	<p>1 example of people confusing recidivism with</p> <p>2 reoffending. It does degrade professional discretion,</p> <p>3 generally will degrade the prediction of recidivism.</p> <p>4 But here it gives this implicit assumption in all of</p> <p>5 this, that recidivism is the same thing as reoffending</p> <p>6 or risk. And we know that the variety -- the</p> <p>7 undetected offenses, even after they are caught, are</p> <p>8 according to Kelly three --</p> <p>9 Q. Well, we'll get to talking about undetected offending.</p> <p>10 I want you to answer the questions that I'm asking</p> <p>11 you.</p> <p>12 A. I did.</p> <p>13 Q. So you agree that overrides of actuarial assessments</p> <p>14 tend to lead to an overestimation of recidivism?</p> <p>15 A. Of recidivism in -- yes.</p> <p>16 Q. Okay. On page 15 of your report, you cite this</p> <p>17 article by Helmus and -- let me get there, page 15 of</p> <p>18 your report -- and Helmus notes that Static-99 is not</p> <p>19 a comprehensive risk assessment, but writes, "What</p> <p>20 additional information needs to be considered may</p> <p>21 depend on the purpose of the assessment."</p> <p>22 Do you agree with that statement?</p> <p>23 A. I don't see that on my page 15.</p> <p>24 Q. Sorry. It is on page 14. It's in the quote from</p> <p>25 Helmus.</p> <p style="text-align: center;">Page 98</p>
<p>1 A. Yes. I agree it's not a comprehensive risk</p> <p>2 assessment.</p> <p>3 Q. Do you agree that's when additional information needs</p> <p>4 to be considered and may depend on the purpose of the</p> <p>5 assessment?</p> <p>6 A. Yes and no. I think -- the part I'm not sure I agree</p> <p>7 with is "...may be fine for routine triage of large</p> <p>8 numbers of cases." Well, it depends on what you're</p> <p>9 gonna do with that information.</p> <p>10 I would consider being put on the registry</p> <p>11 as a big deal, as something that some care should be</p> <p>12 taken with. So I don't -- I don't know what "routine</p> <p>13 triage of large numbers of cases" she's talking about</p> <p>14 in which she thinks Static-99 is sufficient. There</p> <p>15 are issues with Static-99.</p> <p>16 Q. When you say that being put on the registry is a big</p> <p>17 deal, what do you mean by that?</p> <p>18 A. Well, is that what she's talking about? "...may be</p> <p>19 fine for routine triage of large numbers of cases,"</p> <p>20 "triage" for what?</p> <p>21 If she's talking about the registry, I would</p> <p>22 say no. I'm not sure what she's talking about there.</p> <p>23 I do think the registry -- of being put on the</p> <p>24 registry affects people's lives so...</p> <p>25 Q. How does it affect people's lives?</p> <p style="text-align: center;">Page 99</p>	<p>1 A. Look. I'm not testifying on the registry. I'm</p> <p>2 testifying on my report and recidivism versus --</p> <p>3 recidivism versus reoffending.</p> <p>4 Q. But you testified that the registry affects people's</p> <p>5 lives and is a big deal, correct?</p> <p>6 A. Yes. I think it is, but I'm not an expert on the</p> <p>7 registry.</p> <p>8 Q. Okay. So you think the consequences of registration</p> <p>9 are so severe that care should be taken, individual</p> <p>10 assessments should be done with care --</p> <p>11 MR. JAMISON: Objection. Misstates --</p> <p>12 MS. AUKERMAN: -- on the registry?</p> <p>13 THE WITNESS: I'm sorry. Was there an</p> <p>14 objection?</p> <p>15 BY MS. AUKERMAN:</p> <p>16 Q. You may answer.</p> <p>17 THE WITNESS: I lost him for a second.</p> <p>18 MR. JAMISON: Yeah. I objected just 'cause</p> <p>19 it misstates your testimony. You can answer if you</p> <p>20 feel like you can.</p> <p>21 THE WITNESS: I never said "so severe," but</p> <p>22 I do believe it's obvious that the results are not</p> <p>23 trivial.</p> <p>24 BY MS. AUKERMAN:</p> <p>25 Q. And so because the results are not trivial, you think</p> <p style="text-align: center;">Page 100</p>

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<p>1 that individual assessments to determine whether</p> <p>2 someone should be on the registry needs to be done</p> <p>3 with care?</p> <p>4 A. If you're going to do an assessment of the individual,</p> <p>5 I do not believe in just using Static-99R. If you're</p> <p>6 going to do an individual assessment, I think you're</p> <p>7 going to have to go beyond Static-99R. I would never</p> <p>8 use just Static-99R in any assessment.</p> <p>9 Q. So looking at your report -- let me show this to you</p> <p>10 again.</p> <p>11 Do you have it in front of you, your report?</p> <p>12 A. Yes, I do.</p> <p>13 Q. So your first full paragraph on page 15 it says,</p> <p>14 "whether or not triage in large number of cases," you</p> <p>15 say that's made -- whether that's fine. You say,</p> <p>16 "That may depend on the purpose of the triage and how</p> <p>17 much triage it will impact the individual."</p> <p>18 A. Yes.</p> <p>19 Q. In which circumstances do you think using a risk</p> <p>20 assessment to triage a large number of cases would be</p> <p>21 okay?</p> <p>22 A. Well, that's what I'm questioning. I'm not sure.</p> <p>23 Somebody is gonna have to explain to me what she means</p> <p>24 by "triage in a large number of cases," and that's</p> <p>25 what I'm saying. Triageing for what? I don't know</p> <p style="text-align: center;">Page 101</p>	<p>1 that I can think of an outcome where it would be fine</p> <p>2 just to use Static-99R.</p> <p>3 Q. When you say "how much the triaging will impact the</p> <p>4 individual," what do you mean by that?</p> <p>5 A. Well, I do think that there's a difference in civil</p> <p>6 commitments and -- you know, whether they are</p> <p>7 considered intensive-probation supervisees or low-risk</p> <p>8 probation supervisees. There's a difference in the</p> <p>9 levels of confinement, and how long people are</p> <p>10 confined, and whether people are confined, and whether</p> <p>11 the purpose is just whether they're going to an</p> <p>12 intensive treatment program or a low treatment</p> <p>13 program. I think different interventions affect</p> <p>14 individuals differently.</p> <p>15 Q. And so is it fair to say, then, that the greater the</p> <p>16 impact on a person's rights, the more comprehensive</p> <p>17 the risk assessment needs to be?</p> <p>18 A. Yes. I would say that.</p> <p>19 Q. Okay. And your report says that you spent at least</p> <p>20 15 hours at each evaluation that you do, correct?</p> <p>21 A. Generally, yes.</p> <p>22 Q. And that's in the context of determining whether a</p> <p>23 person were made indefinitely detained, correct?</p> <p>24 A. Detained for another year. I don't decide whether</p> <p>25 they are indefinitely retained. I only decide my</p> <p style="text-align: center;">Page 102</p>
<p>1 recommendation as to whether they're ready for</p> <p>2 transition or release.</p> <p>3 Q. But your evaluations, the comprehensive evaluations</p> <p>4 that you do, are in the context of determining whether</p> <p>5 a person will remain detained for another year?</p> <p>6 A. Yes. Well, no. I do address -- my job is also to</p> <p>7 address transitional release. They would be retained.</p> <p>8 They would still be civilly committed under</p> <p>9 transitional release. It just works to integrate them</p> <p>10 within the community. So I just don't decide on</p> <p>11 release. I decide on my opinion of whether they're</p> <p>12 ready for the next phase in treatment.</p> <p>13 Q. Right. But I guess my question is, or the point here</p> <p>14 is that the comprehensive risk assessment you do has</p> <p>15 the potential to determine whether someone will spend</p> <p>16 another year detained, correct?</p> <p>17 A. Yes. It has a potential.</p> <p>18 Q. Okay. And you also have to determine if the person</p> <p>19 has a mental abnormality and is more likely than not</p> <p>20 to commit another sexually violent offense, correct?</p> <p>21 A. Well, for the re-evals, they all were diagnosed with a</p> <p>22 mental abnormality. The question is do they have</p> <p>23 control of it, have they learned interventions that</p> <p>24 will manage it. These mental abnormalities don't</p> <p>25 usually just go poof. They require interventions.</p> <p style="text-align: center;">Page 103</p>	<p>1 Q. But that's a part of your assessment in those cases,</p> <p>2 is what's the status of the person's mental</p> <p>3 abnormality?</p> <p>4 A. Yes.</p> <p>5 Q. And then are they more likely than not to commit</p> <p>6 another sexual violent offense, correct?</p> <p>7 A. Yes. Are they still more likely than not.</p> <p>8 Q. Okay. That's a fair correction.</p> <p>9 So in the conclusion to your report on page</p> <p>10 16 at the very end you say, quote:</p> <p>11 "If there are issues with the method</p> <p>12 that is being used to determine who belongs on</p> <p>13 the Michigan Registry, they will not be solved</p> <p>14 by substituting Static-99R as a stand-alone</p> <p>15 instrument." End quote.</p> <p>16 Do you know what method is currently being used who is</p> <p>17 subject to registration in Michigan?</p> <p>18 A. I believe it's the nature of the current offense.</p> <p>19 Q. When you say "the nature of the current offense," what</p> <p>20 do you mean?</p> <p>21 A. I don't know specifically which offenses they are put</p> <p>22 on the registry and which they don't since I wasn't</p> <p>23 asked to testify about that.</p> <p>24 Q. Do you know if it's a conviction-based registry?</p> <p>25 A. I would assume it is, but no. I'm not testifying on</p> <p style="text-align: center;">Page 104</p>

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<p>1 the registry.</p> <p>2 Q. And you say "if there are issues with the method that</p> <p>3 is being used..."</p> <p>4 What issues are there with that method?</p> <p>5 A. Well, that's what I'm saying. I'm not addressing what</p> <p>6 method is currently being used. I wasn't asked to.</p> <p>7 But, presumably, if Karl is recommending Static-99, he</p> <p>8 feels that there are issues with the current methods.</p> <p>9 In fact, I think -- oh, it was in his report, not</p> <p>10 mine, where he said there were issues with the current</p> <p>11 method. And if there are, I just -- I don't think</p> <p>12 you're gonna get anywhere. I think using Static-99</p> <p>13 alone is misleading.</p> <p>14 Q. So you're not saying that a conviction-based method is</p> <p>15 an appropriate method, correct?</p> <p>16 A. No. I'm not addressing that issue one way or the</p> <p>17 other.</p> <p>18 Q. Okay. You're simply saying that if there are problems</p> <p>19 with a conviction-based registry, the answer is to do</p> <p>20 individual assessments that are more comprehensive</p> <p>21 than just the Static-99?</p> <p>22 A. I'm saying I wouldn't use Static-99 as a replacement,</p> <p>23 yes. If you're going to do an individual assessment,</p> <p>24 which apparently they are not now, then you are going</p> <p>25 to have to go beyond Static-99 if you want to get any</p> <p style="text-align: center;">Page 105</p>	<p>1 kind of accuracy.</p> <p>2 Q. So to improve the accuracy, you need to do things in</p> <p>3 addition to the Static-99?</p> <p>4 A. You would need -- one way to improve accuracy -- I</p> <p>5 don't know if anybody suggested any others -- would be</p> <p>6 to do a comprehensive assessment. That's very time</p> <p>7 consuming.</p> <p>8 Q. Okay. What method would you suggest?</p> <p>9 A. I didn't look into that. I was only asked to address</p> <p>10 the issue of reoffending versus recidivism and some of</p> <p>11 the -- some of the fairly dramatic ways in which</p> <p>12 recidivism and reoffending differ.</p> <p>13 Q. Okay. So let's talk about that. I know you've been</p> <p>14 wanting to talk about that all morning, so let's get</p> <p>15 to that.</p> <p>16 We've talked about before how you define</p> <p>17 recidivism versus reoffending and that you use the</p> <p>18 term reoffending to mean committing another sexual</p> <p>19 offense. Let's go back to page 1 of your report, and</p> <p>20 on the last bullet on page 1 you say, quote:</p> <p>21 "In reality, because of the large number</p> <p>22 of undetected offenses, there is no reliable</p> <p>23 information on reoffending rates." End quote.</p> <p>24 Do you still agree with that statement?</p> <p>25 A. Yes. We know very little actually about reoffending.</p> <p style="text-align: center;">Page 106</p>
<p>1 Q. Okay. So we know that not all sexual crimes are</p> <p>2 reported or detected, correct?</p> <p>3 A. Only a small minority.</p> <p>4 Q. But we don't have reliable information on the rates</p> <p>5 that people who have been convicted by the criminal</p> <p>6 legal system commit more than one offense?</p> <p>7 A. Well, we have some information from sex offender</p> <p>8 reports.</p> <p>9 Q. Okay. We don't have reliable information to know how</p> <p>10 many people who have been convicted commit further</p> <p>11 offenses after conviction, correct?</p> <p>12 A. Well, we have some information. I should have said</p> <p>13 that. But because we do have some studies like the</p> <p>14 Kelly study which looked at specifically undetected</p> <p>15 offenses. But mostly you're right. We don't have the</p> <p>16 same amount of information on reoffending that we have</p> <p>17 on recidivism.</p> <p>18 Q. So we don't have reliable information on how many</p> <p>19 people with convictions have committed more than one</p> <p>20 offense before conviction, right?</p> <p>21 A. Well, as I said, we have more information on that</p> <p>22 issue than we have on how many commit offenses after</p> <p>23 their first conviction. For example, I don't believe</p> <p>24 the Weinrott and Saylor study distinguished between</p> <p>25 the two, but they did have data on the undetected</p> <p style="text-align: center;">Page 107</p>	<p>1 offending as the offenders based on offender</p> <p>2 admissions. And we have some based on polygraphs.</p> <p>3 But it's more common not to separate them out</p> <p>4 according to when did you commit this offense.</p> <p>5 Q. So the research on undetected offending doesn't</p> <p>6 typically separate out whether the undetected</p> <p>7 offending occurred prior to the conviction or after</p> <p>8 the conviction, correct?</p> <p>9 A. No, a lot of it doesn't.</p> <p>10 Q. Okay.</p> <p>11 A. It doesn't.</p> <p>12 Q. Okay. We also don't have reliable information on the</p> <p>13 rates that people who've never been detected by the</p> <p>14 criminal legal system commit more than one offense,</p> <p>15 correct, have never been convicted?</p> <p>16 A. No. You don't have reliable rates. We can make</p> <p>17 estimates about the size of the population by looking</p> <p>18 more closely at the victim literature which I wish</p> <p>19 they would, the researchers would, so we can get some</p> <p>20 idea. I mean, we know that 15 percent of offenses are</p> <p>21 reported to police, and 1 to 2 percent of all sexual</p> <p>22 offenses actually result of convictions.</p> <p>23 Q. So the people who have not been convicted of sexual</p> <p>24 offenses are not on registries, correct?</p> <p>25 A. No, they're not.</p> <p style="text-align: center;">Page 108</p>

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<p>1 Q. Okay. And you said in your report research showing 2 that 95 percent of sex offenses are committed by 3 people who have not been previously convicted of a sex 4 offense, correct? 5 A. That's the Sandler study. 6 Q. Yes. And of that 95 percent, we don't know how many 7 have committed additional offenses beyond those they 8 were convicted of. Meaning, they might have committed 9 one or five before they got convicted, correct? 10 A. I don't remember the Sandler study having any data on 11 that. It might, but I don't remember if it did. 12 Q. Is it fair to say that for the 95 percent of sex 13 offenses that are committed by people who are not on 14 registries, we don't know how many times those people 15 might have offended, correct? 16 A. Well, according to Sandler, I believe that was a 17 registry study, and 95 percent of the new offenses 18 were done by people who had not been caught before. 19 Q. Right. But my question is a little bit different. My 20 question is for those people who were never caught -- 21 or, excuse me. 22 For those people who only now got caught, 23 right? This is their first offense. They weren't on 24 a registry, but they committed a sexual offense. We 25 don't know how many offenses they committed before</p> <p style="text-align: center;">Page 109</p>	<p>1 getting caught, correct? 2 A. I don't think Sandler has data on that to the best of 3 my memory. 4 Q. Okay. So you talk about the Sandler. You talk about 5 the 95 percent in the Sandler study on page 10 of your 6 report. Let's go there. 7 You say the question isn't whether people 8 with convictions or people without convictions are 9 committing the most sex offenses. You say the 10 question is whether there is any reason to think that 11 the percent of offenses reported to the police differs 12 between offenders not previously convicted and 13 offenders who have been. And then you conclude, 14 quote: 15 "...there is no compelling evidence to 16 suggest the percentage [sic] of reported 17 offenses is different between those with no 18 previous convictions and those who do." End 19 quote. 20 Do you still agree with that statement? 21 A. Yes. 22 Q. This case concerns people on sex offender registries 23 whose offense has been detected and who have been 24 furnished. 25 A. Excuse me. I didn't hear that.</p> <p style="text-align: center;">Page 110</p>
<p>1 Q. I'm sorry. 2 A. The sound got jumbled for a second. 3 Q. Sorry about that. So this case concerns people on sex 4 offender registries whose offenses have been detected 5 or at least an offense has been detected and who have 6 been punished. 7 We talked about this before but with the 8 exception of the Kelly study, none of the research 9 that you cited differentiates between repeat offenses 10 that occur before conviction and repeat offenses that 11 occur after conviction, correct? 12 A. Well, I don't think so, but I will after the 13 deposition go back and double check this. But I think 14 in certainly the majority of the studies, just look at 15 how many undetected offenses the person has had. 16 Q. And the Kelly study shows a higher detection rate 17 after conviction, correct? 18 A. Well, relatively speaking, it was still only a third 19 of the total offenses. They had three times as many 20 undetected offenses as detected after. 21 Q. But the detection rate was higher after conviction 22 even though it was still not a size we would like? 23 A. Only up to the first sanction, but it was -- 24 Q. After the first sanction, correct. 25 A. There's still a minority of the offenses that were far</p> <p style="text-align: center;">Page 111</p>	<p>1 more undetected offenses at every point than there 2 were detected. 3 Q. So just to be clear, when in your report you're 4 discussing undetected offending, that relates to how 5 much sexual crime is not detected, regardless of 6 whether it occurred before or after conviction, 7 correct? 8 A. That depends on the context in which I am using it in. 9 For example, in this last question, we were talking 10 about Kelly's findings which have to do with the 11 impact of sanctions, so I was talking about after a 12 sanction. 13 Q. Is there anywhere in your report other than the 14 discussion of Kelly where you talk about undetected 15 offending as referring to undetected offending after 16 conviction? 17 A. Not specifically, I don't think. 18 Q. Okay. So in undetected offending as I understand it, 19 right, it's by definition not reported to the criminal 20 legal system. Otherwise, it would have been detected. 21 And your report discusses two basic types of 22 studies that try to estimate undetected offending. 23 The first of those is victim surveys, right? 24 A. Yes. 25 Q. One way. And then the second of those are studies</p> <p style="text-align: center;">Page 112</p>

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<p>1 based on reporting by offenders about the offenses</p> <p>2 they've committed, right?</p> <p>3 A. Well, first of all, by detected, I mean that are</p> <p>4 charged or as charged and/or convicted. I don't mean</p> <p>5 that someone found out about it but then wasn't</p> <p>6 prosecuted.</p> <p>7 Q. Right. So we're talking about detected by the</p> <p>8 criminal legal system in some way?</p> <p>9 A. Yes.</p> <p>10 Q. But there's basically these two types of research,</p> <p>11 victim surveys and offender surveys, right, to try to</p> <p>12 get at what that undetected offending might be?</p> <p>13 A. Oddly. But there are also -- well, I guess you could</p> <p>14 say they're victim surveys. There are a large scale</p> <p>15 of victim surveys, and then there's surveys of things</p> <p>16 like disclosure rates between kids who were molested</p> <p>17 by a relative versus kids who were molested by someone</p> <p>18 outside the family.</p> <p>19 So they are not necessarily broad</p> <p>20 sociological victim surveys. It's also the disclosure</p> <p>21 research as relevant. But, yes, in general, if you're</p> <p>22 talking about sexual abuse, you're either surveying</p> <p>23 victims, or you're surveying offenders.</p> <p>24 Q. So victim surveys are a way to measure how many people</p> <p>25 are reporting having been the victim of a particular</p> <p style="text-align: center;">Page 113</p>	<p>1 type of crime. Is that fair to say?</p> <p>2 A. Yes.</p> <p>3 Q. And --</p> <p>4 A. As I said, there are other kinds of victim surveys</p> <p>5 like research on what factors lead to disclosures and</p> <p>6 what don't.</p> <p>7 Q. Okay.</p> <p>8 A. With that exception, yes. Go ahead.</p> <p>9 Q. Okay. And doesn't that type of research provide us</p> <p>10 information about the amount of crime that's out there</p> <p>11 that's undetected by looking at the difference between</p> <p>12 how much crime victims report and how much crime is</p> <p>13 reported to the police, so you can get a sense of how</p> <p>14 much undetected crime is out there? Is that fair?</p> <p>15 A. That's one type of victim survey, yes.</p> <p>16 Q. But those victim surveys can't tell us whether that</p> <p>17 undetected crime is being committed by people with</p> <p>18 past convictions who are on registries or previously</p> <p>19 undetected offenders, correct?</p> <p>20 A. Generally, it cannot.</p> <p>21 Q. Okay. Would you agree that survey results can be</p> <p>22 impacted by factors of the size and composition of the</p> <p>23 survey sample?</p> <p>24 A. Of course.</p> <p>25 Q. Or the questions asked?</p> <p style="text-align: center;">Page 114</p>
<p>1 A. Definitely the questions asked.</p> <p>2 Q. And the response rate?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And in surveying people about whether they have</p> <p>5 been a victim of a sexual crime and how you define</p> <p>6 would constitutes a sex crime could affect the</p> <p>7 results, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, the studies you've set in your report have ranges</p> <p>10 of dates going back to 1984 and up to 2015.</p> <p>11 Does that sound about right?</p> <p>12 A. Well, I also reference things like Helmus's 2021</p> <p>13 study; I believe. So, no, it does have higher than</p> <p>14 that.</p> <p>15 Q. Okay. So they refute -- you report you find reporting</p> <p>16 rates of between 6 percent and 32 percent, I believe,</p> <p>17 in the studies that you've described?</p> <p>18 A. Yes. I don't know if I -- yes. In general, that's</p> <p>19 the range of reporting, right. So I think those 6 and</p> <p>20 32 are outliers.</p> <p>21 Q. Okay. Are you familiar with the Bureau of Justice</p> <p>22 Statistics' National Crime Victimization Survey?</p> <p>23 A. Yes. But I don't know -- if you asked me what the</p> <p>24 rates are for that, I can't tell you automatically.</p> <p>25 But it's part of the research that I've read.</p> <p style="text-align: center;">Page 115</p>	<p>1 Q. Okay. And they do an annual victimization survey with</p> <p>2 a large national random sample; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And did you say that many scholars rely on BJS data,</p> <p>5 including the National Crime Victimization Survey?</p> <p>6 A. Rely on what data?</p> <p>7 Q. The Bureau of Justice Statistics BJS data?</p> <p>8 A. It's usually included. They are a number of them</p> <p>9 based on the surveys, on offender surveys, and that</p> <p>10 one is usually included.</p> <p>11 Q. And that scholars rely on that pretty routinely,</p> <p>12 correct?</p> <p>13 A. Along with other data. I wouldn't say they rely on</p> <p>14 that alone. It's one of the surveys that people use.</p> <p>15 Q. Let me show you -- this is a report from the Bureau of</p> <p>16 Justice Statistics reporting crime to the police.</p> <p>17 It's about reporting rates published in 2003.</p> <p>18 (Plaintiffs' Exhibit No. 9 was marked.)</p> <p>19 BY MS. AUKERMAN:</p> <p>20 Q. Do you see that on your screen?</p> <p>21 A. I do.</p> <p>22 Q. Okay. Are you familiar with this report at all?</p> <p>23 A. Yes.</p> <p>24 Q. What's that?</p> <p>25 A. "Yes."</p> <p style="text-align: center;">Page 116</p>

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<p>1 Q. You are familiar with this report?</p> <p>2 A. Can I cite the statistics from memory, no, but yes.</p> <p>3 Q. And going down to Table 1, do you see that they are</p> <p>4 reporting that they show a reporting rate for rape and</p> <p>5 sexual assault of 48 percent? Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you see that the accompany text says, with the</p> <p>8 exception of robbery, there appear differences in the</p> <p>9 percentage of "...sexual assault and other violent</p> <p>10 crimes reported to the police were not statistically</p> <p>11 significant."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. You didn't include the NCVS data in your report. Did</p> <p>15 you?</p> <p>16 A. I did not. I think that is a real outlier and</p> <p>17 possibly related to the fact that it only surveys</p> <p>18 people 12 and up, so they miss the entire group of</p> <p>19 people who are molested as children.</p> <p>20 Q. Okay. Is it fair to say that --</p> <p>21 A. Whether that's the reason or not, that is a real</p> <p>22 outlier.</p> <p>23 Q. Is it fair to say that different studies reach</p> <p>24 different conclusions about the percentage of sexual</p> <p>25 crimes that are reported?</p> <p style="text-align: center;">Page 117</p>	<p>1 A. Yes. That's fair to say. But they tend to group</p> <p>2 between 6 and 32 percent.</p> <p>3 Q. Okay. And so even though the Bureau of Justice</p> <p>4 Statistics and the Department of Justice has a</p> <p>5 national sample, the National Crime Victimization</p> <p>6 Survey, you would disregard that survey?</p> <p>7 A. I think it's definitely an outlier. And after the</p> <p>8 deposition, I will go back and see if I can find out</p> <p>9 why, what the characteristics of that study are that</p> <p>10 make it different from so many other studies.</p> <p>11 Q. On page 2 of your report you say -- let me see if I</p> <p>12 can find it here. It's the second bullet on page 2 of</p> <p>13 you report. It says:</p> <p>14 "Victims report some types of offenders,</p> <p>15 e.g., extra-familial and stranger offenders,</p> <p>16 more than they do other types, e.g., familial</p> <p>17 and familiar."</p> <p>18 Correct?</p> <p>19 A. Yes.</p> <p>20 Q. And then on page 13 you talk about how the research</p> <p>21 specifically shows that reporting rates are lower for</p> <p>22 incest offenses, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And so some of the factors that make familial victims</p> <p>25 of abuse having to report is a fear that they might</p> <p style="text-align: center;">Page 118</p>
<p>1 not be believed, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Or that they're worried about, you know, living with</p> <p>4 the perpetrator, outing somebody's member of their</p> <p>5 family as an offender?</p> <p>6 A. Yes.</p> <p>7 Q. So the research about incest reporting rates, that</p> <p>8 relates to the initial reporting of abuse, correct?</p> <p>9 A. Well, incest typically goes on for a long period of</p> <p>10 time, and what they found -- so it's almost never</p> <p>11 reported immediately. I'm not sure what you're asking</p> <p>12 by the "initial."</p> <p>13 Q. I guess when it's first reported to authorities, when</p> <p>14 abuse that's happening is first reported to</p> <p>15 authorities. It might be years later, but when it's</p> <p>16 first reported to authorities.</p> <p>17 A. Okay. Yes, the -- ask the question again.</p> <p>18 Q. So the studies about reporting rates in familial</p> <p>19 offenses deal with when abuse is first reported to</p> <p>20 police authorities?</p> <p>21 A. Or if it's reported, yes.</p> <p>22 Q. Okay. Do any of the studies you cite examine how</p> <p>23 frequently familial offenses are reported against</p> <p>24 someone who has already been convicted of a sex crime?</p> <p>25 A. No. These are victim surveys. The victims typically</p> <p style="text-align: center;">Page 119</p>	<p>1 don't have that information.</p> <p>2 Q. So we don't know what the reporting rates are where a</p> <p>3 person is reporting reoffending by someone who has</p> <p>4 already been convicted, correct?</p> <p>5 A. I have -- I don't know how to answer that. Static-99</p> <p>6 underestimates the risk of incest offenders.</p> <p>7 Q. That's not my question, Dr. Salter. My question is</p> <p>8 whether we know what the reporting rates are for</p> <p>9 reoffending. What the reporting rates are for</p> <p>10 familial offenses where a person is reporting</p> <p>11 reoffending by someone who has already been convicted.</p> <p>12 A. And I answered that. Victims don't have that</p> <p>13 information.</p> <p>14 Q. So we don't know what those rates are, correct?</p> <p>15 A. This is based on victim samples. I can tell you</p> <p>16 clinically that most of the incest offenders that I've</p> <p>17 seen are the victims, who were victims of incest</p> <p>18 offenders, it went on for years. And they were</p> <p>19 never -- if they were -- they were typically not even</p> <p>20 included in the criminal justice figures because by</p> <p>21 the time the kids reported it, they were adults and</p> <p>22 the statute of limitations have expired.</p> <p>23 Q. So the reporting you're talking about, underreporting</p> <p>24 or lower rates of reporting is abuse that might go on</p> <p>25 for a longer period of time, correct?</p> <p style="text-align: center;">Page 120</p>

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<p>1 A. I'm talking about the fact that Static-99 has a 2 variable called incest offending, and in that variable 3 it says if you've only committed offenses in the 4 family, you get a lower score. 5 Q. But you're not answering my question, Dr. Salter. My 6 question -- let me restate my question to make sure 7 that we're talking about the same thing. 8 My question is can you cite research that 9 looks at the reporting rates for familial offenses 10 where a person already has been -- where the offender 11 has already been convicted of a sex offense? 12 A. And I'm telling you that the research in victims 13 doesn't usually have that data. 14 Q. Okay. Thank you. So we talked about some of the 15 reasons why familial crimes might be less frequently 16 reported, right? 17 Like victims might be hesitant to out a 18 family member who is an offender, correct? 19 A. Yes. 20 Q. Or the child might not be -- be afraid that they might 21 not be believed, correct? 22 A. Yes. 23 Q. Okay. Could those factors change once the family has 24 already been -- where the family member has already 25 been outed as an offender?</p> <p style="text-align: center;">Page 121</p>	<p>1 A. It's usually worse. 2 Q. You think that reporting is less likely to happen 3 after someone has already been convicted? 4 A. Yes, in my clinical experience, the disruption to the 5 family, the loss of financial support. I believe it's 6 Marshall who has said that he followed up with a group 7 of kids who have reported abuse and asked them if it 8 happened again, would they report it. And 100 percent 9 said no, so no -- 10 Q. But that's not -- that study is not dealing with 11 whether people actually report it but whether they 12 would have reported it, correct? 13 A. Whether they would report, and they said no 'cause 14 they're traumatized by the court process. I certainly 15 clinically have no evidence that they would be more 16 likely to report a second time. My belief is they'd 17 be less likely. 18 Q. Okay. But that's based on your personal experience as 19 a clinician, correct? 20 A. It's partly based on that. It's also true. We have 21 some research that says that court harms children. 22 Q. But we don't have research on reporting after a person 23 has been convicted of a familial offense, correct? 24 A. Of a familial offense, I don't know of any. 25 Q. Okay. Thank you. We talked about victim surveys.</p> <p style="text-align: center;">Page 122</p>
<p>1 Let's talk about self-report surveys of people who 2 offended. 3 Would you agree that survey results for 4 self-reports would be affected by the size and 5 composition of the sample? 6 A. All research is affected by the size and composition 7 of the sample. 8 Q. A number of the studies you cite suggest that people 9 in the sample groups in those studies have a large 10 number of undetected victims. 11 Do you believe that studies showing large 12 numbers of victims for those particular sample groups 13 can be generalized to apply to people with sex 14 offenses generally? 15 A. I'm not sure how you're asking that, but yes. I 16 believe that there's data and information in those 17 studies which is relevant to sex offenders generally. 18 Q. So you think -- are you testifying that the rates of 19 undetected offending for people who are committed as 20 sexually violent predators and studies done on those 21 would be the same as the rates of reoffending for 22 somebody who, you know, is convicted of a sex offense 23 for sleeping with an underage girlfriend? 24 A. No. I'm not saying that. I'm saying the literature 25 in undetected offenses generally is consistent and is</p> <p style="text-align: center;">Page 123</p>	<p>1 relevant to a discussion of whether you can rely on 2 recidivism. The major study in that group that looked 3 at SVP people who have been committed was the Kelly 4 study. Most of the studies had people who had then 5 committed crimes like the Weinroff and Saylor, et 6 cetera, but were not SVPs. 7 Q. So one of the studies you cite is the Bourke and 8 Hernandez study -- 9 A. Yes. 10 Q. -- about child abusive materials. Are you aware that 11 the authors of that study, Hernandez has disavowed 12 your interpretation of that study writing that, quote: 13 "The argument that the majority of child 14 pornography offenders are in the context of 15 sexual offenders and they're a dangerous 16 predator simply is not supported by the 17 scientific evidence." 18 Were you aware that Hernandez has disavowed the 19 interpretation you have of his study, of that study? 20 A. Well, first of all, there were two studies. Hernandez 21 and Bourke was involved would both of them. Hernandez 22 was involved with one of them. 23 The one that Hernandez was involved with had 24 a flaw in it, and that had to do with -- I think they 25 included some people. And I don't remember it</p> <p style="text-align: center;">Page 124</p>

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<p>1 exactly, but I think they included some people who</p> <p>2 did -- who distributed pornography or had some kind of</p> <p>3 other offense rather than simply downloading</p> <p>4 pornography. So Bourke redid the study excluding</p> <p>5 those and got the same results.</p> <p>6 But where is that? Where are you referring</p> <p>7 to in my report?</p> <p>8 Q. It's the discussion of Bourke and Hernandez. Let me</p> <p>9 see if I can find it.</p> <p>10 A. If you find the page number, let me know.</p> <p>11 Q. It's on Page 12. My question is specifically were you</p> <p>12 aware that Hernandez has disavowed the interpretation</p> <p>13 of the study that you gave?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. But you didn't note that Hernandez has</p> <p>16 disavowed your interpretation in your report, correct?</p> <p>17 A. 'Cause my understanding is he was under quite a bit of</p> <p>18 pressure from the Federal Bureau of Prisons, and</p> <p>19 Bourke resigned. He took a different job and did a</p> <p>20 study free of their interference, and it got the same</p> <p>21 results or similar. So the results stood up on</p> <p>22 replication.</p> <p>23 Q. Are you aware that many scholars have criticized both</p> <p>24 the study and it's misinterpretation?</p> <p>25 A. Well the first study, I'm not aware of valid</p> <p style="text-align: center;">Page 125</p>	<p>1 criticisms of either the second study or Bourke has.</p> <p>2 I don't know if I reported it. Bourke has a series of</p> <p>3 three other studies that were done that also found</p> <p>4 high rates of hands-on offending at usually based on</p> <p>5 polygraph results.</p> <p>6 Q. You didn't include any of those criticisms in your</p> <p>7 report. Did you?</p> <p>8 A. No.</p> <p>9 Q. Okay. Are you aware that at least one federal court</p> <p>10 has rejected reliance on that study?</p> <p>11 A. On the Hernandez study or the other Bourke and</p> <p>12 Hernandez?</p> <p>13 Q. The Bourke and Hernandez study. Are you aware of</p> <p>14 that?</p> <p>15 A. No. I don't remember.</p> <p>16 Q. Are you familiar with the American Psychological</p> <p>17 Association of Guidelines For Forensic Psychology?</p> <p>18 A. I haven't read them recently, but yes. I'm aware of</p> <p>19 them.</p> <p>20 Q. Let me show you those.</p> <p>21 (Plaintiffs' Exhibit No. 10 was marked.)</p> <p>22 BY MS. AUKERMAN:</p> <p>23 Q. Do you see those?</p> <p>24 A. It's pretty small, but yes.</p> <p>25 Q. Let me make that bigger. Do you see that better now?</p> <p style="text-align: center;">Page 126</p>
<p>1 A. Yes.</p> <p>2 Q. And would you agree that those guidelines apply to</p> <p>3 your work in this case?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. In looking at Guideline 1.02, that guideline</p> <p>6 requires forensic practitioners to seek "to represent</p> <p>7 alternative perspectives, including data, studies, or</p> <p>8 evidence on both sides of the question, in an</p> <p>9 accurate, fair and professional manner, and strive to</p> <p>10 weigh and present" -- wait. I might be looking at the</p> <p>11 wrong one.</p> <p>12 A. I can't see what you're talking about. I think I can</p> <p>13 see the --</p> <p>14 Q. I think it's further down. Okay. I'm sorry. Can you</p> <p>15 see that now?</p> <p>16 A. Yes.</p> <p>17 Q. So it says:</p> <p>18 "When providing educational services,</p> <p>19 forensic practitioners seek to represent</p> <p>20 alternative perspectives, including data,</p> <p>21 studies, or evidence on both sides of the</p> <p>22 question, in an accurate, fair and</p> <p>23 professional manner, and strive to weigh and</p> <p>24 present all views, facts, or opinions</p> <p>25 impartially."</p> <p style="text-align: center;">Page 127</p>	<p>1 Correct?</p> <p>2 A. Yes.</p> <p>3 Q. And do you see the Guidelines 11.01? Let's scroll</p> <p>4 down to that. It requires that "...forensic</p> <p>5 practitioners do not distort or withhold relevant</p> <p>6 evidence or opinion in" written -- "in reports or</p> <p>7 testimony," correct?</p> <p>8 A. Yes.</p> <p>9 Q. So basically, these requirements are to fairly</p> <p>10 describe the research and also point out -- and also</p> <p>11 make clear if there's criticism of research.</p> <p>12 Is that fair to say?</p> <p>13 A. Well, yes. Although, you would never finish a report</p> <p>14 if you included all the commentary on it, on the</p> <p>15 research.</p> <p>16 Q. But is it fair to say that where a piece of research</p> <p>17 has been debunked or heavily criticized, that's</p> <p>18 something that you should note in your report?</p> <p>19 A. No. If you take out the Hernandez study, the other</p> <p>20 studies get the same results. The Hernandez study,</p> <p>21 essentially, was replicated with other research. I</p> <p>22 don't think I have -- and the research that Karl</p> <p>23 cites, that other people cite, there is always</p> <p>24 somebody out there criticizing that research. When I</p> <p>25 thought it was relevant, for example, in the Scurich</p> <p style="text-align: center;">Page 128</p>

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<p>1 study where there wasn't other studies that replicated</p> <p>2 the findings, I did say Abbott has criticized this on</p> <p>3 statistical grounds.</p> <p>4 So I do believe that I have been impartial</p> <p>5 and fair in this report, and I don't believe, not</p> <p>6 including the research in the Bourke and Hernandez --</p> <p>7 which frankly, after reading the study, I don't even</p> <p>8 think was fair or accurate -- makes my report any less</p> <p>9 impartial.</p> <p>10 Q. So in Scurich, you would agree that that has been</p> <p>11 widely criticized, correct?</p> <p>12 A. Scurich was criticized by Abbott for the statistical</p> <p>13 analysis. But, again, you've got the problem that</p> <p>14 Scurich's findings are similar to findings from a wide</p> <p>15 variety of research.</p> <p>16 Q. Has Scurich been criticized by other scholars as well?</p> <p>17 A. All of these studies have, and all of the ones that</p> <p>18 Karl Hanson cited have. And Static-99 has been</p> <p>19 criticized -- I didn't even include that -- by</p> <p>20 researchers. You have to figure out what you think is</p> <p>21 fair and accurate and include it.</p> <p>22 Q. So, for example, the Langevin study -- I don't know if</p> <p>23 I'm pronouncing that correctly -- on page 8.</p> <p>24 A. "Langevin."</p> <p>25 Q. Langevin that you cite, are you aware that that study</p> <p style="text-align: center;">Page 129</p>	<p>1 has been very widely criticized?</p> <p>2 A. Let's see. Where is it?</p> <p>3 Q. Let me see. It's page 8; I believe.</p> <p>4 A. I don't see it. Oh, yeah. Wait a minute.</p> <p>5 Q. The top of the page, the first not full paragraph.</p> <p>6 A. Yes. But I'm not sure if that's been criticized</p> <p>7 because it isn't accurate or because people just don't</p> <p>8 like the findings.</p> <p>9 Q. But you're aware that it's been widely criticized?</p> <p>10 A. All of these studies including Static-99 have been</p> <p>11 criticized.</p> <p>12 Q. But you didn't include those criticisms in your</p> <p>13 report, correct?</p> <p>14 A. I didn't include criticisms in the report when I</p> <p>15 didn't think they were relevant because the literature</p> <p>16 was consistent with a wide variety of other studies</p> <p>17 that had the same reports. That kind of speaks to how</p> <p>18 valid the criticism was.</p> <p>19 Q. So let me look at -- I'm just gonna go to another</p> <p>20 article. This is Exhibit 11, and let's just talk a</p> <p>21 little bit more, then maybe we can take a short break.</p> <p>22 (Plaintiffs' Exhibit No. 11 was marked.)</p> <p>23 BY MS. AUKERMAN:</p> <p>24 Q. Showing you Exhibit 11, this is an article on</p> <p>25 misperceptions about child sex offenders by Kelly</p> <p style="text-align: center;">Page 130</p>
<p>1 Richards put out by the Australian Institute of</p> <p>2 Criminology.</p> <p>3 Are you familiar with this?</p> <p>4 A. I've seen it, but in all honesty, I don't remember it.</p> <p>5 Q. Okay. So let's scroll down to page 5 here. I'm</p> <p>6 sorry. It's page 4. This is an article that</p> <p>7 discusses common misperceptions about child sexual</p> <p>8 offending and child sex offenses. And it says one of</p> <p>9 the common misperceptions is at the time an offender</p> <p>10 is detected, he has victimized hundreds of children.</p> <p>11 And then it goes on to say that the</p> <p>12 misperception has even -- quote, the "misperception</p> <p>13 has even permeated the academic literature on child</p> <p>14 sex offenders." And then it cites to you and your</p> <p>15 book, Predators, as an example of the way that this</p> <p>16 misperception has permeated the academic literature.</p> <p>17 It goes on to quote you as saying that men</p> <p>18 who molest out-of-home female children average 20</p> <p>19 victims and men who molest out-of-home male victims</p> <p>20 average 150 victims.</p> <p>21 And then it's accurate to say -- then the</p> <p>22 report goes on to criticize your discussion of the</p> <p>23 literature as, quote (as read), "strictly speaking,</p> <p>24 correct," unquote, but is failing to report key</p> <p>25 findings that the median number of victims is 1.3 for</p> <p style="text-align: center;">Page 131</p>	<p>1 females and 4.4 for male victims.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. So you were suggesting in your work the victim range</p> <p>5 of 20 to 150, correct?</p> <p>6 A. No. I was accurately quoting a research study. That</p> <p>7 wasn't my finding. That was Abel's finding, and it</p> <p>8 was an important finding.</p> <p>9 Q. Right. But you neglected to mention that while the</p> <p>10 average was 20, the average of victims is 20, you</p> <p>11 failed to disclose that the medium number is 1.3.</p> <p>12 You failed to disclose that, correct?</p> <p>13 A. Apparently. I don't remember in the book. But I'm</p> <p>14 assuming she's correct that I used the average rather</p> <p>15 than the median.</p> <p>16 Q. Do you think that talking about 20 victims when the</p> <p>17 median is actually 1.3 is consistent with the APA</p> <p>18 guidelines that you should not distort or withhold</p> <p>19 relevant evidence?</p> <p>20 A. I did not distort relevant evidence, and I do stand by</p> <p>21 reporting Abel's findings in that matter.</p> <p>22 MS. AUKERMAN: Okay. Why don't we take --</p> <p>23 can we take a five-minute break, or do you need more</p> <p>24 time than that?</p> <p>25 MR. JAMISON: Do you know how much more you</p> <p style="text-align: center;">Page 132</p>

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<p>1 have, Miriam?</p> <p>2 MS. AUKERMAN: I'm actually getting close to</p> <p>3 done. I mean, we can probably push through, but I</p> <p>4 think it might be nice to have a five-minute break.</p> <p>5 THE WITNESS: I need a five-minute break.</p> <p>6 MS. AUKERMAN: Yes. Okay. Let's do that.</p> <p>7 (From 2:12 p.m. to 2:18 p.m., recess was</p> <p>8 taken.)</p> <p>9 BY MS. AUKERMAN:</p> <p>10 Q. Let's go back to your CV which is Exhibit 4.</p> <p>11 You are trained as a clinical psychologist,</p> <p>12 correct, Dr. Salter?</p> <p>13 A. Yes.</p> <p>14 Q. You got your Ph.D. in 1977, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And then it looks like you spent about a decade doing</p> <p>17 some teaching and working in programs focused on</p> <p>18 parents in distress and children at risk, correct?</p> <p>19 A. Parents in Distress was a child abuse program.</p> <p>20 Children at Risk was a sexual abuse program.</p> <p>21 Q. And then it looks like you taught at Dartmouth as an</p> <p>22 assistant professor from 1981 to 1988 and as an</p> <p>23 adjunct from 1988 to 1996; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. What courses did you teach?</p> <p style="text-align: center;">Page 133</p>	<p>1 A. We didn't teach courses. I was in the department of</p> <p>2 psychiatry, and this was -- and in the department</p> <p>3 of -- it was pediatrics, but at that time, it was</p> <p>4 called maternal and child health. And while there, I</p> <p>5 had a clinical caseload. I supervised psychiatric</p> <p>6 residents. I supervised pediatric residents.</p> <p>7 I was director of psychosocial education for</p> <p>8 the pediatrics residency program. I started a</p> <p>9 parenting clinic. We rotated -- well, with the</p> <p>10 pediatricians, we rotated kids -- we rotated residents</p> <p>11 through that.</p> <p>12 I was director of child psychiatry</p> <p>13 consultations in the inpatient unit. Again, I</p> <p>14 supervised psychiatric residents who were called for</p> <p>15 consultation, psychiatric consultation to the</p> <p>16 residency program, codirector of the Children At Risk</p> <p>17 Program. We didn't have residents in that.</p> <p>18 I wrote a child abuse program called the</p> <p>19 Parents in Distress Program. So I had</p> <p>20 responsibilities for supervising residents in various</p> <p>21 programs that I was involved in. I occasionally -- I</p> <p>22 didn't teach any courses at the medical school. I</p> <p>23 lectured there a couple of times, but that's all.</p> <p>24 Q. Okay. So your work was primarily clinical and</p> <p>25 supervising other -- and supervising residents in a</p> <p style="text-align: center;">Page 134</p>
<p>1 clinical setting. Is that fair to say?</p> <p>2 A. Yes. Well, Steve Caris (phonetic), the pediatrician,</p> <p>3 and I started programs, wrote grants, and did some</p> <p>4 research. But, really, I think most of my time was</p> <p>5 clinical in one way or another.</p> <p>6 Q. Okay. And then starting in 1988 until 1996 --</p> <p>7 although, I guess we talked about how you had a</p> <p>8 private practice, but we talked about earlier how the</p> <p>9 CV is incorrect in that. The private practice</p> <p>10 actually extended longer than that, correct?</p> <p>11 A. Well, I don't know that the CV is incorrect, but it</p> <p>12 looks like I didn't include the brief private practice</p> <p>13 after I moved.</p> <p>14 Q. Okay. But you stopped treating patients, and we</p> <p>15 talked earlier about the type of patients that you</p> <p>16 saw, correct?</p> <p>17 A. Well, we talked about the type of patients that I saw</p> <p>18 primarily in my Wisconsin private practice.</p> <p>19 Q. Okay.</p> <p>20 A. In Lebanon, New Hampshire, I saw a wide variety of</p> <p>21 patients. I did see some sex offenders, but I -- and</p> <p>22 I did run some sex offender groups, but I also saw</p> <p>23 kids and adults for depression, anxiety, the general</p> <p>24 practice.</p> <p>25 Q. And you stopped treating patients -- did you stop in</p> <p style="text-align: center;">Page 135</p>	<p>1 1996 treating patients?</p> <p>2 A. As I said, I moved in 1996, and then I ran a private</p> <p>3 practice for a couple of years.</p> <p>4 Q. So you stopped treating patients more like 1999?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. I just want to make sure I get the dates right</p> <p>7 here.</p> <p>8 And then starting in 1996, you started</p> <p>9 working as a consultant for the Wisconsin Department</p> <p>10 of Corrections, correct?</p> <p>11 A. Yes.</p> <p>12 Q. It looks like you consulted with them for about</p> <p>13 13 years, correct?</p> <p>14 A. Well, till 2019, so yeah 12, 13 years.</p> <p>15 Q. We talked earlier about your work there. You also</p> <p>16 spent about five years starting in 2009 as a</p> <p>17 consultant with the Tri-Counties Juvenile Sex Offender</p> <p>18 Project. What did you do there?</p> <p>19 A. Three counties came together to start a sex offender</p> <p>20 group in northern Wisconsin. None of them had -- a</p> <p>21 juvenile sex offender group. None of them had</p> <p>22 juvenile sex offenders to start a group in each</p> <p>23 county, so they combined their referrals and started a</p> <p>24 group.</p> <p>25 I did training. I initially did, I think,</p> <p style="text-align: center;">Page 136</p>

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<p>1 five days of training. I helped write the curriculum, 2 and I, you know, met with them once a month and 3 consulted clinically. At one point, I assessed a 4 particular juvenile, but mostly I was training and 5 supervising clinicians who ran -- who were involved 6 with juvenile sex offenders. 7 Q. So this, again, was clinical work or supervising 8 training for clinical work? 9 A. Yes. I'm a clinician. 10 Q. Yup, okay. You also talk about the trainings that 11 you've conducted, and your CV says you conducted 12 trainings on sexual abuse, correct? 13 A. Yes. 14 Q. So let me just -- so on page 3 of your CV, it says you 15 conducted training on sexual abuse, and then it goes 16 on to list locations for those trainings. And I 17 believe you testified earlier that you charge \$3500 a 18 day roughly for the trainings. Is that right? 19 A. Well, I do now. When I started out, we charged less. 20 I think I charged 2,000 or something. 21 Q. Okay. Now, there's a lot of these trainings. You 22 list a lot of locations but not the organizations that 23 you provided the training for. 24 What types of organizations do you provide 25 trainings for?</p> <p style="text-align: center;">Page 137</p>	<p>1 A. Mostly any organization, type of organization, that's 2 involved with sex offenders or violent offenders, a 3 lot of training for corrections, a lot of mental 4 health trainings, trainings for attorneys, trainings 5 for judges, trainings for probation and parole. I 6 think the last training I did was for the FBI's 7 Behavioral Analysis Unit for the new recruits. I 8 train them every year for -- 9 Q. What's -- I'm sorry. I cut you off. Go ahead. 10 A. So I trained for some religious organizations. I've 11 never trained for a victim's conference, meaning of 12 victims. I tend to train professionals who are 13 involved with sex offenders. 14 Q. What's the topic of the trainings that you provide? 15 A. Pretty much everything on children, disclosure, child 16 sexual abuse, impact of child sexual abuse. Let me 17 just pull up some of the names of my slides, and I can 18 tell you. 19 Pathology in thinking of sex offenders, 20 counterintuitive behaviors, current controversy. I've 21 done trainings on psychopaths, sadists. I do 22 trainings on detecting deception on antisocial 23 thinking, on child pornography, on staff predators, 24 people -- inmates or other offenders who seduce and 25 manipulate staff, on actuarial in Static-99 and</p> <p style="text-align: center;">Page 138</p>
<p>1 dynamic factors, on adolescents and the research on 2 immature brain, development on child pornography, on 3 cognitive distortions, on incest. Those are some of 4 the training that I've done. 5 Q. Let's just look quickly just because it's a little 6 hard to tell from your CV, quite frankly, because you 7 don't list the organizations or the topics of each 8 training. 9 Let's just look at the first entry here, 10 March 20, 2022, you say you did a training in 11 Anchorage, Alaska. What was that for? 12 A. There are a variety of mental health people there. I 13 think it was organized by corrections, but they were 14 outpatient clinicians invited as well. I'm not sure 15 if that's the one where the -- wait a minute. Hang on 16 a second. I got interrupted. 17 Anyway. I've done two trainings probably in 18 the last five years in Alaska. One got interrupted 19 because I was there for the earthquake. And the 20 ceiling fell in, and I had to go home. And I came 21 back at a different time to try to finish. Let me see 22 if I can pull up that particular training if you want 23 to know. 24 Q. I'm just trying to get a sense. We don't have to go 25 into huge detail. I'm just trying to get a sense in</p> <p style="text-align: center;">Page 139</p>	<p>1 what you've actually trained on in the last couple of 2 years. 3 A. Well, FBI this year. I trained on counterintuitive 4 victim behaviors, current controversy, psychopath, 5 sadists, typologies of sex offenders. I don't think I 6 got to detecting deception, but I had it ready. 7 I also trained in the last few years on the 8 national psychologists who work for the National 9 Security Counsel. That was on the topics that I just 10 mentioned plus antisocial thinking and child 11 pornography. I trained on nurses recently in 12 Wisconsin remotely, and that was on staff predators. 13 Those are some of the more recent trainings. 14 Q. Okay. The one in Des Moines, Iowa, who was that for? 15 A. When was that? Oh, it doesn't say. 16 Does it say when that was? 17 Q. It says sometime between March 2020-2022. 18 A. Des Moines, Iowa was on final -- on "final" -- on 19 counterintuitive behaviors, disclosures, coaching of 20 children, suggestive questioning, something I call 21 protective parent panic. I believe that was for a 22 hospital. 23 Q. And the one in Austin, Texas, who was that for? 24 A. Well, in '21, I see Des Moines, Alaska, FBI, a high 25 school, CSOT. I don't see Austin.</p> <p style="text-align: center;">Page 140</p>

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<p>1 Q. The version of your CV that I have -- I can share my 2 screen. 3 A. Well, just tell me what's on there. 4 Q. It just says 2020 to 2022, Austin, Texas. 5 A. I don't remember. 6 Q. It's right here on top of page 4. 7 A. No, I understand. But I'm looking for the slides. 8 Q. I'm just wondering. I don't necessarily need to know 9 what you covered, just who it was for. If you don't 10 recall, that's fine. 11 A. I don't recall. 12 Q. Okay. Do you recall for Montreal, Canada who that was 13 for? 14 A. Wait a minute. I think that Austin was for a group 15 that had a very odd name, like the angels of 16 something. That's all I remember about Austin. The 17 computer accident was in 2020, and I did lose some 18 data that could not be recovered. 19 Q. Okay. You also have a website, correct, 20 AnnaSalter.com; is that right? 21 A. Yes. 22 Q. And you sell video presentations on that? 23 A. No. I don't do video presentations on that website. 24 Q. I thought when I went on that website it was possible 25 to purchase video presentations?</p> <p style="text-align: center;">Page 141</p>	<p>1 A. Not presentations, no. I have two videos, training 2 videos out. One is called Truth, Lies and Sex 3 Offenders. It's interviews with offenders, and you 4 only see their faces about how they fooled their 5 communities, families, victims, parents. 6 And the second one -- actually, I think we 7 combined them on one DVD -- is interviews with sadists 8 and psychopaths. They don't usually talk to you, so I 9 thought it was valuable to put out a video on how they 10 think. 11 Q. How many copies of these videos have you sold? 12 A. I have no idea. I took it back from Sage because they 13 were charging so much that it was ridiculous and put 14 it on my website. I have no idea how many were sold. 15 Q. It looked like on your website each one costs \$149. 16 Is that right? 17 A. I don't think so. I think that's when it was in Sage, 18 but maybe I'm wrong, maybe when they combined the two 19 of them. I have somebody running my website. Maybe 20 they charge 149. If that's what it says, it must be 21 right 'cause the woman who ships them does the 22 website. 23 Q. Okay. And when were those made? 24 A. Oh, gosh, many years ago. Probably, I'd say in the 25 '90s.</p> <p style="text-align: center;">Page 142</p>
<p>1 Q. Let's look at your CV and look at your publications. 2 So you have a section here that says Publications, 3 Awards & Examples of Workshops. 4 So your CV groups together your 5 publications, your awards, and your workshops, 6 correct? 7 A. Yes. 8 Q. So I want to focus on what you've published. Now, I 9 understand that you also write mystery novels, 10 correct? 11 A. Yes. 12 Q. But let's set those aside because they're probably not 13 that relevant to this, and let's look at the three 14 books that you've written related to sexual offending. 15 A. Yes. 16 Q. So I've highlighted those in blue. Working backwards 17 starting at the end, the first one of those books 18 was -- hold on. 19 A. Treating Child Sex Offenders and Victims: A Practical 20 Guide. 21 Q. Right. Did I not highlight that in blue? I intended 22 to. Yeah, it should have been in blue. Okay. 23 Anyway. Training Child Sex Offenders and 24 Victims: A Practical Guide. And Amazon described 25 that book "as a practical manual designed to assist</p> <p style="text-align: center;">Page 143</p>	<p>1 mental health professionals in the effective treatment 2 of both victims and offenders through the development 3 of specialized skills. The book discusses methods of 4 treatment of offenders and victims." 5 Is that an accurate description of the book? 6 A. Yes. 7 Q. Okay. And that was published in 1988, correct? 8 A. Yes. 9 Q. So 35 years ago. The second book that you have is 10 Transforming Trauma: A Guide to Understanding and 11 Treating Adult Survivors of Child Sexual Abuse, 12 correct? 13 A. Yes. 14 Q. And Amazon says this book is, quote, "primarily 15 oriented toward treating adult survivors," end quote, 16 but, quote, "will also be useful for treating sex 17 offenders." End quote. 18 And Amazon talks about how it discusses 19 topics such as what clinicians who treat survivors 20 need to know about sex offenders, the different ways 21 sadistic and non-sadistic offenders think, and 22 resolving different footprints they leave in the heads 23 of survivors? 24 Is that an accurate description of the book? 25 A. Yes.</p> <p style="text-align: center;">Page 144</p>

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<p>1 Q. So it was a guide for treatment professionals?</p> <p>2 A. Yes. Although, most of the feedback I get has been</p> <p>3 from victims.</p> <p>4 Q. Okay. Was it aimed at clinicians?</p> <p>5 A. It was aimed at clinicians, but it turns out it was</p> <p>6 more useful for victims than I anticipated.</p> <p>7 Q. Okay. And so then that was published in 1995,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And then the third book that you've written</p> <p>11 is Predators: Pedophiles, Rapists, and other Sex</p> <p>12 Offenders: Who They Are, How They Operate, and How We</p> <p>13 Can Protect Our Children, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Amazon says this, quote, "Dispels the myth about</p> <p>16 sexual predators and gives us the tools to protect our</p> <p>17 families and ourselves."</p> <p>18 Is that an accurate description?</p> <p>19 A. Yes.</p> <p>20 Q. So this book has a general audience, right?</p> <p>21 Meaning, it provides information to parents</p> <p>22 about how to protect their kids and to the public</p> <p>23 about how to protect themselves; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And that was first published in 2003, about 20 years</p> <p style="text-align: center;">Page 145</p>	<p>1 ago?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now, your CV says that there was a new edition,</p> <p>4 a second edition to be released in the fall of 2019.</p> <p>5 Was the second edition released?</p> <p>6 A. No.</p> <p>7 Q. There was not a second edition?</p> <p>8 A. No. The publisher claims there was. I mean, they</p> <p>9 have labeled it, but it's the same book.</p> <p>10 Q. Okay. So there were changes made to what you</p> <p>11 published in 2003?</p> <p>12 A. There were not changes made.</p> <p>13 Q. Okay. So if I'm understanding it correctly, you've</p> <p>14 written two books that are aimed at or intended for</p> <p>15 treatment providers and clinicians, and one that was</p> <p>16 for a sort of general audience. Is that accurate?</p> <p>17 A. For treatment providers and clinicians.</p> <p>18 Q. Were any of your books peer reviewed?</p> <p>19 A. Oh, yeah. Before Sage took my first book, they sent</p> <p>20 it out for peer review, and I'm blanking his name. I</p> <p>21 met him afterwards. Maybe it was Frank Baldwin.</p> <p>22 Anyway. It was peer reviewed by several</p> <p>23 people who publish with Sage Publishing.</p> <p>24 Q. This Treating Child Sex Offenders and Victims, is that</p> <p>25 the one you're talking about?</p> <p style="text-align: center;">Page 146</p>
<p>1 A. I don't know if that's -- that got one. Well, I mean,</p> <p>2 they're all reviewed after you put them out. But if</p> <p>3 you mean before you put them out, then I the second or</p> <p>4 the third one were, but they all get reviewed.</p> <p>5 Q. Right. I'm talking about the academic peer-reviewed</p> <p>6 process. So it sounds like the second and third book</p> <p>7 didn't go through any kind of academic peer review?</p> <p>8 A. I thought the peer-review process is typically for</p> <p>9 articles. Typically, books are not reviewed. I think</p> <p>10 it was probably an exception because they didn't know</p> <p>11 me that they put out -- they put the initial one out</p> <p>12 for peer review, but I don't think that's typical of</p> <p>13 books.</p> <p>14 Q. Okay. So that initial one was sent out for someone to</p> <p>15 look at it and vouch for it, basically?</p> <p>16 A. Or not, but it was sent out to more than one person; I</p> <p>17 believe.</p> <p>18 Q. Okay. Your CV also lists one book chapter here, and</p> <p>19 that is -- at least it looked like a book chapter.</p> <p>20 Epidemiology of child sexual abuse, in a volume by</p> <p>21 Dominique O'Donohue, The Sexual Abuse of Children.</p> <p>22 Is that a book chapter?</p> <p>23 A. Yes.</p> <p>24 Q. And that came out in 1992, correct?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 147</p>	<p>1 Q. Correct, 1992?</p> <p>2 A. Yes. I said "yes."</p> <p>3 Q. Sorry. I didn't hear you. And just very briefly,</p> <p>4 what was that about?</p> <p>5 A. Well, it was for -- it was about the incidents in</p> <p>6 prevalence of child sexual abuse, how common it is,</p> <p>7 what we know from the literature and epidemiology.</p> <p>8 Q. Okay. And you were saying before that books are</p> <p>9 typically peer reviewed, so would that chapter have</p> <p>10 been peer reviewed?</p> <p>11 A. I don't know if O'Donohue had it peer reviewed or not.</p> <p>12 I submitted it, and it was accepted. But I don't know</p> <p>13 if there was any process.</p> <p>14 Q. Okay. So then I went through and I highlighted in</p> <p>15 yellow on your CV what looked to be the articles that</p> <p>16 you've written. I found five that were published in</p> <p>17 journals.</p> <p>18 Am I missing any published articles listed</p> <p>19 on your CV?</p> <p>20 A. Well, I don't think so.</p> <p>21 Q. Okay. So have you published any articles in journals</p> <p>22 other than those listed on the CV?</p> <p>23 A. Not that I know of.</p> <p>24 Q. Okay. So let's talk briefly about those articles</p> <p>25 starting at the top here. There's an article,</p> <p style="text-align: center;">Page 148</p>

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<p>1 Confessions of a whistleblower: Lessons learned, in 2 the journal Ethics and Behavior. 3 My understanding is that article is about 4 your experience being subject to ethical charges and 5 lawsuits; is that right? 6 A. Well, by one person, not subject to anybody else. But 7 this one person did sue me for writing -- or for a 8 variety of things, being in a film in Australia that 9 debunked his work, writing a monograph that debunked 10 his work. 11 He set me up with a phony phone call. A 12 woman calls my home, asked for my help in a legal 13 case, asked me who he was, and I said he's a hired 14 gun. And he sued me with that and tried to take on 15 ethics charges based on a phony phone call. So it was 16 about my experience with Ralph Underwager. 17 Eventually, all of it was thrown out. The legal suit 18 was thrown out. The ethics charges were thrown out. 19 Q. Was that article peer reviewed? 20 A. Yeah, I think so because it was in a journal, Ethics 21 and Behaviors. 22 Q. But do you recall whether it was. Do you know for 23 sure that it was peer reviewed, or you just assume it 24 was? 25 A. I assume it was. I don't remember 'cause it's been a</p> <p style="text-align: center;">Page 149</p>	<p>1 long time ago. 2 Q. Okay. So then let's look at the next article. This 3 actually should not be highlighted 'cause that's -- 4 A. No, that's the training on that. 5 Q. Yeah. That should not be highlighted. 6 Okay. So the next one I had -- actually, 7 maybe there's only four articles. 8 A. There may be. 9 Q. All right. So I believe there's only four. The next 10 one is Response to the "Abuse of the child sexual 11 abuse accommodation syndrome" in the Journal of Child 12 Sexual Abuse. 13 Do you know whether that article was peer 14 reviewed? 15 A. Again, that's a journal that would have done peer 16 review. I don't remember any specific feedback on my 17 article, but I assume all the journals do peer review. 18 Q. Okay. But you're not certain? 19 A. No, I don't remember. 20 Q. Okay. And that was published in '92, correct? 21 A. Yes. 22 Q. And then you have an article on Treating Abusive 23 Parents in Child Welfare from 1985, correct? 24 A. Yes. 25 Q. And, again, you don't know whether or not that was</p> <p style="text-align: center;">Page 150</p>
<p>1 peer reviewed? 2 A. Again, I assume any article in a reputable journal -- 3 and these are all reputable -- as peer reviewed. 4 Q. Okay. And then you have an article from 1985, Working 5 with Abused Preschoolers: A Guide for Caretakers, in 6 Child Welfare, correct? 7 A. Yes. 8 Q. Okay. And, again, you assume it was peer reviewed, 9 but you don't really know? 10 A. Yes. 11 Q. Okay. So we have a total of four articles published 12 between 1985 and 1998, correct? 13 A. Yes. 14 Q. Okay. So the most recent published journal article 15 you have is from 1998, right? 16 A. Probably, yes. 17 Q. I was reading your book, Predators. It's written in 18 the first person; is that right? 19 A. Well, some of it is. 20 Q. And it describes your personal experiences? 21 A. Well, some of it does. It also talks about sadists 22 and psychopaths based on interviews I have done with 23 them and transcripts. 24 Q. Okay. And it talks about your views on people who 25 commit sex offenses, correct?</p> <p style="text-align: center;">Page 151</p>	<p>1 A. Well, you have to be more specific. 2 Q. Well, you share your opinions in that book, right? 3 A. The book is based on data. It's based on transcripts. 4 I try to illustrate how offenders think by using their 5 own words. And sometimes for some topics like 6 epidemiology, I go to the research literature as well. 7 But a lot of it is based -- I'm a clinician. A lot of 8 it is based on clinical interviews with offenders that 9 I typed while I was doing them. 10 Q. So when you say the book is based on data, what you 11 mean is that the book is based on clinical 12 experiences, interviews that you've done, correct? 13 A. It certainly includes those. There are chapters that 14 include a summary of the research. I think the 15 epidemiology chapter probably only has research in it. 16 Q. Okay. 17 A. But, yes, it certainly includes transcripts of 18 interviews with offenders. 19 Q. Okay. You didn't do any research studies from writing 20 Predators, correct? 21 A. I'm not a researcher. Now, I think Predators does 22 include one informal study I did in Wisconsin, staff 23 predators where I interviewed a series of offenders 24 who had seduced multiple staff members. But mostly, I 25 review the research. It's not based on a study that I</p> <p style="text-align: center;">Page 152</p>

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<p>1 did.</p> <p>2 Q. So you review other people's research. You don't do</p> <p>3 your own research, correct?</p> <p>4 A. That's correct. I'm not a researcher.</p> <p>5 Q. You don't do quantitative analysis, correct?</p> <p>6 A. Well, not for a very long time, no.</p> <p>7 Q. There's a couple of things that struck me reading your</p> <p>8 book, and I just wanted to read back some pieces from</p> <p>9 that.</p> <p>10 On page 7, you said, quote, "I want to learn</p> <p>11 more about sadists, so that I can become better at</p> <p>12 evaluating them and testifying against them." End</p> <p>13 quote.</p> <p>14 Do you still agree with that statement?</p> <p>15 A. Well, I can't remember testifying for a sadist. If I</p> <p>16 stipulate to a sadist being released, I don't testify,</p> <p>17 so if I'm testifying, it is against -- if I'm</p> <p>18 testifying about a sadist, it's against them.</p> <p>19 Q. So is that broadly true of people with sex offenses?</p> <p>20 When you're testifying, you're testifying</p> <p>21 against them?</p> <p>22 A. Yes, because of the job I have. If I stipulate to the</p> <p>23 TRPR release, then I am not called to testify.</p> <p>24 Q. You haven't testified on behalf of persons who</p> <p>25 committed a sex offense, correct?</p> <p style="text-align: center;">Page 153</p>	<p>1 A. Well, I can't because in the present job I have or in</p> <p>2 the job I had before this doing initial evaluations.</p> <p>3 For example, the 50 percent of offenders that I said</p> <p>4 did not meet criteria are released. It doesn't go</p> <p>5 forward to a trial.</p> <p>6 Q. You said 50 percent of offenders who don't meet</p> <p>7 criteria. In what context was that?</p> <p>8 A. That was when I was working for Iowa doing initial</p> <p>9 sexual SVP evaluations, not the reoffending</p> <p>10 evaluations, the initial ones. And I believe -- I</p> <p>11 think I have it somewhere, that I had about a</p> <p>12 51 percent rate of finding that the people did not</p> <p>13 meet criteria, so the case ended. So I found more</p> <p>14 often for the defense than for the prosecution, but</p> <p>15 that gets twisted in court when people say, "Oh, so</p> <p>16 you didn't testify for offenders. Did you?" I didn't</p> <p>17 testify because they were released, and there wasn't a</p> <p>18 trial.</p> <p>19 Q. So let me ask about that. How did you track the</p> <p>20 number of cases you were testifying for -- excuse me.</p> <p>21 How did you track the number of cases in</p> <p>22 which you didn't find that the person didn't meet</p> <p>23 criteria for commitment?</p> <p>24 A. I don't know if I still have it after the crash, but</p> <p>25 that's the one thing I kept a list of, was when I was</p> <p style="text-align: center;">Page 154</p>
<p>1 doing the initial SVP evaluations. And the reason I</p> <p>2 kept a list is because I would be asked what my</p> <p>3 percentage was in terms of finding that they met</p> <p>4 criteria or finding that they didn't. So I had an</p> <p>5 active need for it in court.</p> <p>6 Q. Who was referred for screening for evaluation for an</p> <p>7 SVP?</p> <p>8 A. Who?</p> <p>9 Q. Yes. How does that work?</p> <p>10 Who got sent for evaluation in the first</p> <p>11 place?</p> <p>12 A. Well, DOC made -- the Iowa DOC made the first cut in</p> <p>13 that they took a group of people that they thought</p> <p>14 were high risk to reoffend. Typically, they were</p> <p>15 people who failed treatment or wouldn't go to</p> <p>16 treatment or something like that. And I think they</p> <p>17 almost always had multiple offenses.</p> <p>18 There might have been one or two cases where</p> <p>19 the initial offense was so egregious, that they were</p> <p>20 reported. That they were sent for an evaluation, and</p> <p>21 then a clinician was assigned -- I was not the only</p> <p>22 person doing these -- to evaluate whether that case</p> <p>23 should go forward or not. That's the point where I</p> <p>24 rejected over 50 percent of them.</p> <p>25 Q. Okay. So we don't really have a good sense, then, of</p> <p style="text-align: center;">Page 155</p>	<p>1 who was being retained in the first place, right?</p> <p>2 These are people that DOC staff was sending</p> <p>3 your way, right?</p> <p>4 A. Well, we have a sense that they were trying their best</p> <p>5 to follow the law which said did the person have a</p> <p>6 diagnosis that predisposed them to sexual abuse, and</p> <p>7 were they more likely than not to reoffend. They</p> <p>8 often had in-house people who did an evaluation, and</p> <p>9 based on that -- I don't remember what percent of the</p> <p>10 sex offenders they sent forward, but it was certainly</p> <p>11 no more than 8 percent of those. And I cut that down</p> <p>12 to the top 4 percent based on my evaluation.</p> <p>13 Q. And then for the annual evaluations, I believe you</p> <p>14 testified earlier that you can't recall how many of</p> <p>15 those individuals you found qualified for release,</p> <p>16 correct?</p> <p>17 A. That's correct. And you have to remember -- are you</p> <p>18 just saying discharge or transitional release?</p> <p>19 Q. I'm talking about discharge.</p> <p>20 A. Discharge, well, they have to be in the transitional</p> <p>21 release program before I will consider them for</p> <p>22 discharge because I don't believe in throwing</p> <p>23 offenders, many of whom have been institutionalized,</p> <p>24 out with no support. So in the transitional release</p> <p>25 program, I don't know how many we have in today, but</p> <p style="text-align: center;">Page 156</p>

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<p>1 it's often like only 14 people in that program.</p> <p>2 Q. So how many people have you recommended for</p> <p>3 transitional release?</p> <p>4 A. Well, it's the same question. I don't know exactly</p> <p>5 how many I recommended, but the law in Iowa requires</p> <p>6 that they have completed an RPP, Relax Prevention</p> <p>7 Plan, that has been approved by the treatment team.</p> <p>8 That means the only ones who are eligible are in Phase</p> <p>9 4 because --</p> <p>10 Q. Dr. Salter, you're not answering the question that I'm</p> <p>11 asking. I'm asking -- well, did you keep a list of</p> <p>12 the number of cases where you're doing annual</p> <p>13 evaluations where you recommended that the person step</p> <p>14 down and enter transition?</p> <p>15 A. No.</p> <p>16 Q. Did you keep a list of the number of cases where you</p> <p>17 recommended the person be released?</p> <p>18 A. No.</p> <p>19 Q. So you don't know how many people you've recommended</p> <p>20 for transition, correct?</p> <p>21 A. That's correct. I was explaining to you that the pool</p> <p>22 of candidates is not the entire 138. It's only the</p> <p>23 people who have an approved relapse plan in Phase 4.</p> <p>24 The number is gonna be relatively small because I'm</p> <p>25 not allowed to consider all of the offenders in the</p> <p style="text-align: center;">Page 157</p>	<p>1 program.</p> <p>2 Q. When is the last time you recommended someone for</p> <p>3 transitioning to a lower level of security?</p> <p>4 A. Oh, I don't know. Certainly, in the last couple of</p> <p>5 years, I have, but I don't know specifically.</p> <p>6 Q. When's the last time you recommended someone for</p> <p>7 relief?</p> <p>8 A. I think you asked me that earlier, and I told you I</p> <p>9 didn't know. I don't keep a list.</p> <p>10 Q. Going back to your book, Predators, on page 16 you</p> <p>11 write, quote, "In our system of justice, lawyers are</p> <p>12 for sale." End quote.</p> <p>13 Do you believe that? Do you still agree</p> <p>14 with that statement?</p> <p>15 A. Absolutely. The more money you have, the more lawyers</p> <p>16 you can hire.</p> <p>17 Q. Page 25 and 26 of your book you write that "even when</p> <p>18 people are warned that someone has a past sex offense,</p> <p>19 while they still routinely understate the pathology</p> <p>20 which they're dealing, niceness and likability</p> <p>21 override a track record of child molestation any day</p> <p>22 of the week." End quote.</p> <p>23 Do you still agree with that statement?</p> <p>24 A. Absolutely. Likability will override other things.</p> <p>25 Q. Okay. In Chapter 11, that's the chapter in which you</p> <p style="text-align: center;">Page 158</p>
<p>1 describe what people can do to protect themselves and</p> <p>2 their children from sexual abuse, correct?</p> <p>3 A. Well, I don't remember the chapter number, but I'll</p> <p>4 take your word for it.</p> <p>5 Q. And you provide guidance to people what practical</p> <p>6 steps they can take to be safe, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And steps that they can take to protect their kids,</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. So you make a number of recommendations there, and let</p> <p>12 me just list some of them. You describe on page</p> <p>13 224 -- you describe dropping off your kids at little</p> <p>14 league and watching another mom drop off her kids, and</p> <p>15 you are appalled. You wrote, quote:</p> <p>16 "Is she really going to do it, I</p> <p>17 thought, dropping a nine-year-old off for his</p> <p>18 first day in the first year of little league?</p> <p>19 Yes. She was going to do it, and she did."</p> <p>20 End quote.</p> <p>21 So one of your recommendations is to always be present</p> <p>22 for your child's sport's practices or other events,</p> <p>23 correct?</p> <p>24 A. Yes. Get involved.</p> <p>25 Q. You shouldn't let your child go to sports without a</p> <p style="text-align: center;">Page 159</p>	<p>1 parent present?</p> <p>2 A. I think you should be -- when they're young.</p> <p>3 Obviously, this is not gonna work for teenagers, but I</p> <p>4 encourage parents to be involved in their children's</p> <p>5 activities. They tend to think that strangers are the</p> <p>6 issue, and they aren't the issue. They tend to</p> <p>7 blankly trust people in certain roles, and they</p> <p>8 shouldn't. Yes, that's my recommendation. Parents</p> <p>9 should get involved in their kid's activities.</p> <p>10 Q. You recommend against allowing children to go to</p> <p>11 overnight camp, correct?</p> <p>12 A. Well, I tell them that it's a high-risk situation, and</p> <p>13 it is.</p> <p>14 Q. And you recommend monitoring your children's internet</p> <p>15 use, correct?</p> <p>16 A. Oh, especially in their 11 to 14-year-old range.</p> <p>17 Q. You recommend not putting pictures of your children on</p> <p>18 your desk at work, correct?</p> <p>19 A. Yes, I do. If you deal with the public, that is.</p> <p>20 Q. You recommend keeping a cell phone in your room at</p> <p>21 night, correct?</p> <p>22 A. Yes.</p> <p>23 Q. You recommend getting a dog, and you say that, quote,</p> <p>24 "a poodle works just fine," correct?</p> <p>25 A. Yes. A poodle probably would.</p> <p style="text-align: center;">Page 160</p>

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<p>1 Q. So in describing -- we talked about some of the</p> <p>2 different recommendations you make in Chapter 11 about</p> <p>3 the steps we can take to protect ourselves and our</p> <p>4 kids.</p> <p>5 You didn't include anything about the sex</p> <p>6 offender registry, correct?</p> <p>7 A. No, I didn't.</p> <p>8 Q. Okay, thank you.</p> <p>9 Do you have training in statistics?</p> <p>10 A. I did it at Harvard, but I am not a statistician and</p> <p>11 do not pretend to be one.</p> <p>12 Q. Okay. Do you have training in empirical research?</p> <p>13 A. Again, I did at Harvard, but as I've explained, I am a</p> <p>14 clinician.</p> <p>15 Q. Right. So that would have been back in the 1970's is</p> <p>16 the last time that you had training in statistical or</p> <p>17 empirical work?</p> <p>18 A. Well, you know, I attended the trainings by Hanson and</p> <p>19 Thornton and others, and they certainly discuss the</p> <p>20 statistical basis of the Static-99R. But in terms of</p> <p>21 formal classes outside of at ongoing continual</p> <p>22 education, I got the formal stuff back when I was in</p> <p>23 school.</p> <p>24 Q. And do you have training in research methodology?</p> <p>25 A. Again, I took training when I was in school, and I</p> <p style="text-align: center;">Page 161</p>	<p>1 attend ongoing classes by -- as I said, I have</p> <p>2 attended Karl Hanson and Helmus, Thornton, and -- I</p> <p>3 blanked on his name, the psychopathy guy. Harris.</p> <p>4 Q. So it's fair to say that -- I mean, you're a</p> <p>5 clinician.</p> <p>6 You're not a researcher, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And you don't have training in -- I mean, you don't do</p> <p>9 your own statistical analysis. You don't do your own</p> <p>10 research. You don't do your own quantitative data</p> <p>11 analysis, anything like that, right?</p> <p>12 A. Correct.</p> <p>13 Q. And you haven't done empirical work in one of these</p> <p>14 datasets involving people with sex offenses, correct?</p> <p>15 A. That's correct.</p> <p>16 Q. You haven't received any training to do empirical</p> <p>17 research?</p> <p>18 A. Well, yeah, I did when I was at Dartmouth, but I</p> <p>19 haven't done -- with Steve Caris, but I haven't done</p> <p>20 it since then.</p> <p>21 Q. And you haven't published any data based research</p> <p>22 studies?</p> <p>23 A. Well, again, Predators, I did have a chapter on</p> <p>24 research that I had done on staff predators, but that</p> <p>25 was it.</p> <p style="text-align: center;">Page 162</p>
<p>1 Q. But that was -- you said that was an informal study,</p> <p>2 right?</p> <p>3 A. Well, yes. And it was just basically frequency data</p> <p>4 rather than, you know, anything more complicated</p> <p>5 statistically.</p> <p>6 Q. Okay. The report you've written cites the work of</p> <p>7 various scholars, but it doesn't cite any work that</p> <p>8 you yourself have published, correct?</p> <p>9 A. As I said, I'm a clinician not a researcher.</p> <p>10 Q. Let's talk a little bit about the sex offender</p> <p>11 registry. You said before you're not an expert on the</p> <p>12 sex offender registry, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. You've not done any empirical work on sex offender</p> <p>15 registration?</p> <p>16 A. No.</p> <p>17 Q. You've not written articles or books about sex</p> <p>18 offender registration?</p> <p>19 A. And I'm not testifying on sex offender registration.</p> <p>20 Q. I believe you testified earlier that you've always</p> <p>21 been qualified as an expert. That there's not been a</p> <p>22 situation where you've not been qualified as an expert</p> <p>23 when you've been offered as one. Is that accurate?</p> <p>24 A. As far as I know.</p> <p>25 Q. Okay. Have you ever been excluded from giving</p> <p style="text-align: center;">Page 163</p>	<p>1 testimony by a court?</p> <p>2 A. Well, it's the same thing; I suppose. I said I was</p> <p>3 excluded from giving testimony on cults by a Wisconsin</p> <p>4 court. There was a court in Minnesota that didn't</p> <p>5 allow me to testify, but I don't think it was based on</p> <p>6 expert qualifications. It was based on a topic, so</p> <p>7 far as I know, that they wanted me to testify on.</p> <p>8 Q. What was that about?</p> <p>9 A. It was so many years ago, I don't remember. But the</p> <p>10 judge wouldn't allow the topic, and I -- that's</p> <p>11 happened before. There's a judge in Wisconsin that</p> <p>12 wouldn't allow anyone to testify on interviewing. The</p> <p>13 training, the child advocacy center advocates go</p> <p>14 through to avoid suggestibility, so I remember -- I</p> <p>15 mean, there have been topics that the court wouldn't</p> <p>16 allow because they were prejudicial, but they have</p> <p>17 allowed me to testify on other topics, generally.</p> <p>18 Q. Have you ever -- has a court ever found you not to be</p> <p>19 credible?</p> <p>20 A. Oh, there have been. Out of 200 cases, I am aware of</p> <p>21 two to three judges that have written negative</p> <p>22 comments about my testimony, but that's not really</p> <p>23 including -- and there had certainly been a couple of</p> <p>24 SVP judges who didn't agree with me. But it's, you</p> <p>25 know, as far as I can figure out, the ones who have</p> <p style="text-align: center;">Page 164</p>

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<p>1 actually criticized me and said I wasn't credible is 1 2 to 2 percent of the cases I've been involved in. 3 Q. You mentioned two to three judges who have written 4 negative comments on your testimony. 5 Can you tell me who those are, what cases 6 those were? 7 A. Well, no, probably not. I remember the criticism more 8 than where they were. But there was a case on the 9 east coast where all the records were sealed. It was 10 a child sexual abuse case, and I was testifying that 11 the -- the type of interview that was done, that one 12 was suggestive and the other was not. And the 13 particular judge was very angry at the mother, and 14 criticized and found not credible every expert for the 15 child. And I was among them. I remember that. I 16 don't remember. I don't remember what state. I don't 17 remember what state that was. Maybe Rhode Island, but 18 it was definitely on the east coast. 19 Q. Are there other courts that have criticized your 20 testimony? 21 A. Yes, there was. I don't remember where this was, but 22 there was a judge in an SVP case who said that -- I 23 talked about an offender. He did a number of rapes. 24 But one of them he attacked a seven-month pregnant 25 woman on a bicycle path, and it was interrupted by an</p> <p style="text-align: center;">Page 165</p>	<p>1 observer. 2 And I called it -- I was talking about his 3 motivations, and I called it an assault. And the 4 judge criticized me because the assault -- because the 5 bystander had interrupted it. So he hadn't gotten to 6 assault the woman, but he was trying to. And that 7 same judge criticized me because I didn't believe the 8 offender. 9 He had met a woman in a bar. According to 10 her, she didn't know him, and then he had tried -- he 11 had raped her. He talked her into going outside, and 12 then he raped her. And she said she didn't know him. 13 The guy claimed that she was his girlfriend, and it 14 was just a misunderstanding. And I called it a 15 stranger rape. And this was in the -- 16 Q. What case is this in? It's not helpful to me unless I 17 know the names of the cases. 18 A. I can look for that. I don't know. 19 Q. Well, let's -- are there any other cases where you 20 remember the name of a court where you were 21 criticized? 22 A. I don't remember the name of the court. I think at 23 least -- I am sure that one judge in Wisconsin must 24 have criticized me at some point. 25 Q. So it's fair to say that some judges have criticized</p> <p style="text-align: center;">Page 166</p>
<p>1 your testimony? 2 A. Oh, sure. To the best of my knowledge about 2 3 percent, and I'm not gonna do any better than that if 4 I live to be 100. 5 Q. So let's look at one of those cases. This is -- let 6 me share my screen here. 7 Do you recall testifying in the case of 8 United States v. Graham in the United States District 9 Court the District of Massachusetts? 10 A. That's the one I was talking about where he accused me 11 of calling it an assault when it was interrupted, and 12 he accused me of not -- eventually, not believing the 13 offender. 14 Q. So let's look here of what the court says about you. 15 The court says -- 16 A. That's what I just said. 17 Q. Right. I understand. I'm just wanting to review what 18 the court's findings were about you. So on page 10 19 here says, after weighing both your testimony and the 20 content of the report, "this court finds that 21 Dr. Salter was not a credible witness." Correct? 22 A. Yes. 23 Q. And then the court goes on to say, "First, it is worth 24 noting that Dr. Salter's report and testimony contain 25 a number of factual inaccuracies, many insignificant</p> <p style="text-align: center;">Page 167</p>	<p>1 and some significant," correct? 2 A. Yes. 3 Q. And then the court goes on to say that: 4 "It is difficult to make a determining 5 ultimate significance, if any, of each mistake 6 or ignored facts on Dr. Salter's final 7 diagnosis. Viewed in totality, however, the 8 court discerned a definite bias in her overall 9 analysis. This troubling bias detracted from 10 her credibility as a witness for the 11 Government." 12 Correct? 13 A. Yes. 14 Q. And the court further finds that you had a previous 15 position to a particular diagnosis. That your 16 findings were against the weight of the evidence in 17 the record, and that you appeared unwilling to credit 18 evidence weighing against the diagnosis you made. 19 Correct? 20 A. Yes. 21 Q. So those were the criticisms the court had of you in 22 that particular case? 23 A. Yes. That's correct. 24 Q. Let's look at another one. Can you see this? This is 25 Supreme (sic) Court of New Jersey?</p> <p style="text-align: center;">Page 168</p>

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<p>1 MS. AUKERMAN: I'm sorry that last one was 2 Exhibit 13, and this is now Exhibit 14. 3 (Plaintiffs' Exhibit Nos. 13 and 14 were 4 marked.) 5 BY MS. AUKERMAN: 6 Q. This is an unpublished case out of the Superior Court 7 of New Jersey, K.M. v. S.M.M. 8 Do you recall testifying in this case? 9 A. Actually, I don't. But, I mean, assuming I do, if I 10 was -- obviously, I must have, but I don't remember 11 this case. 12 Q. Okay. 13 A. I don't know if this was the one I talked about or 14 not. 15 Q. This may be the one. It sounds similar to like the 16 one you were describing before. 17 A. Yes. 18 Q. This has to do with testimony regarding the mother had 19 made sexual abuse allegations against the father, and 20 that's the one with the ruling of the trial court? 21 A. Yes. That's the one I was talking about. 22 Q. And here, you were testifying about interviewing 23 techniques of the person who interviewed the children, 24 correct? 25 A. Yes.</p> <p style="text-align: center;">Page 169</p>	<p>1 Q. And court quote -- the court found you were, quote, 2 "clearly not credible," end quote, in attempting to 3 defend the interviewing technique used, correct? 4 A. Yes. And they were -- and I still stand by that 5 testimony. 6 Q. Okay. Then here's another one. This is -- I'll make 7 this Exhibit 15. 8 (Plaintiffs' Exhibit No. 15 was marked.) 9 BY MS. AUKERMAN: 10 Q. This is State v. Tjernagel from the Iowa Court of 11 Appeals, 2017. 12 A. Sure. 13 Q. And this appears to be an appeal reversing a 14 conviction for a sexual offense, and you testified in 15 that case in that trial court, correct? 16 A. Yes, I did. 17 Q. And on page 4 here -- I think I already said this, but 18 this is Exhibit 15. 19 On page 4 here the court says that you 20 impermissibly vouched for the credibility of the child 21 victim, correct? 22 A. Yes. That was the court's complaint. 23 Q. And the court found that your statements went too far 24 when you implied that the child was telling the truth 25 about the alleged abuse, correct?</p> <p style="text-align: center;">Page 170</p>
<p>1 A. Yes. Although, I can't remember. You know, I can't 2 remember how it was they thought that I implied that 3 the child was credible, but they did find that. 4 Q. Okay. Let's look at another one here. 5 MS. AUKERMAN: Make this Exhibit 16. 6 (Plaintiffs' Exhibit No. 16 was marked.) 7 BY MS. AUKERMAN: 8 Q. This is a recent decision, In Re The Detention of 9 Stewart Schuman in the Iowa District Court For Story 10 County, correct? 11 A. Yes. 12 Q. August 2022, Exhibit 16. And you prepared a report 13 and testified in this case, correct? 14 A. Yes. This was one of the re-evals. 15 Q. And the court found that you had misinterpreted 16 statements by the petitioner. On page 7 it says, "The 17 court finds that Dr. Salter's analysis of the two 18 points makes too much of too little. Her conclusion 19 that he was deceptive on these occasions is not 20 entitled to any weight." 21 Correct, that's what the court found? 22 A. That's true. 23 Q. Okay. And then on page 8, the court finds that you 24 applied the wrong legal standard by putting the burden 25 on Mr. Schuman, correct?</p> <p style="text-align: center;">Page 171</p>	<p>1 A. Yeah. And I actually think that they were right about 2 that. 3 Q. I mean, you've done a lot of these hearings, but you 4 made a mistake about who has the burden of proof, 5 correct? 6 A. In this case. 7 Q. Okay. Moving on to page 15 of this report, you relied 8 a lot on polygraph examinations including one here, 9 and the court discussed the problems with reliance on 10 polygraphs and finds, quote: 11 "...this court gives no weight to the 12 polygraph results. To the extent that 13 Dr. Salter's conclusions and CCUSO's actions 14 rely on those results, those conclusions and 15 actions are not supported in this record." 16 Correct? 17 A. Yes. That's correct. The polygraph is part of the 18 treatment program. The program does give some weight 19 to it. And I reported the polygraph results, and I 20 did give some weight to them. 21 Q. Okay. And the court rejected your reliance on 22 polygraphs, correct? 23 A. And on the plethysmograph, the court did. The court 24 threw out most of the records. 25 Q. Going on to page 18, there the court discusses that</p> <p style="text-align: center;">Page 172</p>

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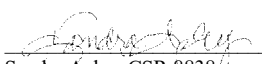
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<p>1 you declined to consider the Static-99 score in</p> <p>2 assessing Mr. Schuman, and one of the reasons that you</p> <p>3 gave is that the Static-99 measures recidivism and not</p> <p>4 reoffending, correct?</p> <p>5 A. Well, I think the main reason I gave -- yes. I did</p> <p>6 give that reason, but also that it was insensitive to</p> <p>7 treatment.</p> <p>8 Q. Okay. And then on page 19, the court noted that</p> <p>9 recidivism as a proxy for reoffending was part of the</p> <p>10 initial decision to commit Mr. Schuman and to at least</p> <p>11 as valid to consider it now.</p> <p>12 So the court rejected in Schuman the</p> <p>13 argument that you're making here about not using the</p> <p>14 Static-99 or not considering the Static-99, correct?</p> <p>15 A. That's true.</p> <p>16 Q. Okay. And on page 20 on whether Mr. Schuman had a</p> <p>17 mental abnormality, the court stated that it was not</p> <p>18 convinced that your judgment on that topic are sound,</p> <p>19 correct?</p> <p>20 A. Wait a minute. I'm looking for that.</p> <p>21 Q. It's the very bottom line here that I've got the</p> <p>22 cursor on.</p> <p>23 A. Yeah, he didn't agree with me. He thought that</p> <p>24 Schuman had reduced his mental abnormality.</p> <p>25 Q. Okay. And finally on page 22, the court found that</p> <p style="text-align: center;">Page 173</p>	<p>1 your evaluation was based on information that the</p> <p>2 court does not find it is reliable, correct?</p> <p>3 A. Right. The court didn't -- wouldn't admit any of the</p> <p>4 polygraph or the plethysmograph or the Abel screen</p> <p>5 information.</p> <p>6 Q. Okay. Give me just a minute. So just to go back</p> <p>7 quickly to the evaluations that you've done. You</p> <p>8 don't recall what -- you don't recall what your income</p> <p>9 is for expert testimony, correct?</p> <p>10 A. Well, not testimony outside the civil commitment</p> <p>11 arena. I have records on the Iowa contract.</p> <p>12 MS. AUKERMAN: Okay. I think that I don't</p> <p>13 have any further questions.</p> <p>14 Eric, do you have questions?</p> <p>15 MR. JAMISON: Yeah. I just had a couple</p> <p>16 that I think will be really quick.</p> <p>17 EXAMINATION</p> <p>18 BY MR. JAMISON:</p> <p>19 Q. First, at some point we were talking about Dr. Hanson</p> <p>20 and Dr. -- "Letourneau," I believe is how it's</p> <p>21 pronounced?</p> <p>22 A. Yes.</p> <p>23 Q. And you had talked about whether or not they're top</p> <p>24 authorities in their field?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 174</p>
<p>1 Q. I believe your answer was yes to both of those</p> <p>2 questions.</p> <p>3 In what field are they top authorities in?</p> <p>4 A. Well, recidivism, recidivism of sex offenders,</p> <p>5 particularly Static-99R.</p> <p>6 Q. Okay. And is recidivism the same thing as</p> <p>7 reoffending?</p> <p>8 A. No. That's my complaint, is that the recidivism</p> <p>9 figures don't take into account the fact that only a</p> <p>10 small minority of offenses are actually reported. The</p> <p>11 chances of getting convicted for a sexual event</p> <p>12 compared to the amount of offending out there is about</p> <p>13 1 to 2 percent.</p> <p>14 My complaint, ironically given the questions</p> <p>15 today, is bias. That there is a large movement today</p> <p>16 to underestimate the risk that sex offenders pose, and</p> <p>17 that data are getting distorted in service of what is</p> <p>18 ultimately a political agenda. And that the</p> <p>19 problem -- the reason this is an important issue to me</p> <p>20 is because it orients policy away from reducing the</p> <p>21 justice gap.</p> <p>22 We need to find ways to make the court</p> <p>23 experience easier for victims, so that more victims</p> <p>24 will disclose. It is not acceptable to have a</p> <p>25 15 percent disclosure rate of sexual offenses for</p> <p style="text-align: center;">Page 175</p>	<p>1 children and adults. And by claiming that the figures</p> <p>2 on Static-99 measure reoffending, they collapse as</p> <p>3 justice gaps as though it doesn't exist. And it is in</p> <p>4 the service of claiming that people are overreacting</p> <p>5 to sex offenders, and that sex offenders are really</p> <p>6 that dangerous, and they rarely reoffend, yada, yada,</p> <p>7 yada. That's my concern.</p> <p>8 My concern is that good researchers are</p> <p>9 putting out things that they either know aren't true</p> <p>10 or should know aren't true in the service of trying to</p> <p>11 get rid of things like the registry or sexually</p> <p>12 violent predator commitments itself.</p> <p>13 Q. And you also -- throughout your course of your</p> <p>14 deposition, we talked about, I think, in Iowa one of</p> <p>15 the requirements for civil commitment is there's a</p> <p>16 mental abnormality?</p> <p>17 A. Yes.</p> <p>18 Q. What is a mental abnormality?</p> <p>19 A. Well, it's more than that. It's a mental abnormality</p> <p>20 that predisposes them to commit sexual offending, and</p> <p>21 generally, people go by DSM-V to determine what is and</p> <p>22 isn't a mental abnormality.</p> <p>23 Now, in Iowa -- and probably in every state</p> <p>24 that has these laws -- has a theory it would apply</p> <p>25 because it predisposes people to commit sexual</p> <p style="text-align: center;">Page 176</p>

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<p>1 offenses. Sexual sadism would apply. Antisocial</p> <p>2 personality disorder is accepted in Iowa, but I've</p> <p>3 never seen a case where depression, for example, was</p> <p>4 accepted.</p> <p>5 Psychosis is rarely accepted unless the</p> <p>6 person has, for example, hallucinations that tell them</p> <p>7 to offend unless they can be specifically tied to</p> <p>8 offending. But most psychotic -- you know, a</p> <p>9 diagnosis of schizophrenia wouldn't predispose them to</p> <p>10 commit sexual offenses. So it has to be a diagnosis,</p> <p>11 but it has to be one that's tied to sexual offending.</p> <p>12 MR. JAMISON: All right. I think that's all</p> <p>13 I have. Thank you.</p> <p>14 MS. AUKERMAN: We can go off the record.</p> <p>15 (At 3:21 p.m., the deposition concluded.)</p> <p>16 //</p> <p>17 //</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 177</p>	<p>1 STATE OF MICHIGAN)</p> <p>2) ss:</p> <p>3 COUNTY OF OAKLAND)</p> <p>4</p> <p>5 I, Sandra Apley, Certified Shorthand</p> <p>6 Reporter, a Notary Public acting for the County of</p> <p>7 Oakland, State of Michigan, do hereby certify that the</p> <p>8 testimony of ANNA C. SALTER, Ph.D., whose attached</p> <p>9 deposition consisting of 177 pages, was taken before</p> <p>10 me in the above-entitled matter and was by me duly</p> <p>11 sworn at the aforementioned time and place; that the</p> <p>12 testimony was stenographically recorded in the</p> <p>13 presence of said witness and afterwards transcribed by</p> <p>14 computer under my personal supervision; and that the</p> <p>15 said deposition is a full, true, and correct</p> <p>16 transcript of the testimony given by the witness.</p> <p>17 I further certify that I am not connected by</p> <p>18 blood or marriage with any of the parties or their</p> <p>19 attorneys, and that I am not an employee of either of</p> <p>20 them, nor financially interested in the action.</p> <p>21</p> <p>22  Sandra Apley, CSR-8838 Notary Public Oakland County, Michigan Signed: 06/12/2023 My commission expires: 06/08/2029</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 178</p>
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